access stair case to the north side of this unit, extending the 2½ stories. The first floor has a deck 7½ ft. x 23 ft. with the stairs projecting. That floor area is a total of 1672 sq. ft.. The second floor which is a seperate unit is a 1½ story unit on top of the one level unit, which is accessed by a wooden staircase from the rear court yard, it is also accessed from a common staire care to the north. It is a dining, living, kitchen area 2 baths and 2 bedrooms with a deck 8'x23' extending along the ocean front. This level is 1241.9 sq. ft. The half story for the loft area is built over the second level, it is considerably smaller in its width, due to being built within the confines of a slope roof. The rafters and the exterior wall must not be higher than 2 feet, in fact they are setting their wall back which is about 4½ feet at this level and is about 5 feet from the exterior wall. They have allowed for some dormer windows which will be in conformance with the total lineal footage of the building. The ocean side has a sliding glass door and a small deck for a view. This once again is accessed by a stairway from the lower level. It has a full bath and 2 bedrooms. The square footage is 901 sq. ft..
The total square footage is 3,814.9 sq. feet. Mr Parziale testified the pre-existing first floor was 1,939.5 sq. ft., second floor was 1,440 sq. ft. and the attic was 1,440 sq. ft., total 4819.5.

Mr. Burke stated according to Manasquan, the house now is measured from the boardwalk, that is the point of measurement, so evey single house along that beachfront when you walk in to that house that is the first floor. Anything below that is a basement. Our point is that you had a 1½ story house with a full basement and an apartment in that basement, Mr. Parziale testified he has to contradict that becasue the town accepted this survey during the sub-division as a 2 story frame dwelling. It was a two story on the tax map.

Mr. Byrnes read the definition - a basement shall be counted as a story if it's ceiling is more than 5 ft. above the level from which the height of the building is measured or if it is used for business purposes by other than a janitor or domestic servent employed in the same building.

Mr. Parziale testified the definition that he went by was the definition by the Federal Government stateing a 2 story dwelling and according to the survey which was accepted by the Planning Board in Manasquan a few years prior stating it was a 2 story dwelling. He testified he disagrees with the Boards findings.
Mr. Parziale testified in the bottom part, there is a front bedroom 23x15 on the front east side, walking back a large utility room, another room on the west side,there is a bedroom to the south, an eating kitchen to the north with an island, and heading west is a large living room and a bath to the side of that and a bath by the utility room, and another bedroom.

under the rear deck, also under the front deck there is a space probably about 5'deep x 7'wide. Under the rear deck is the extensions which is 24x71'.Photos submitted were marked A-17 to A-25.
Photo A-12 shows the extension under the rear deck.

Mr. Burke in questioning Mr. Amelchenko said looking at the first two pages of the plans, this is the beach front elevation page 2. What you designate on here as first floor plan that is entered from the beachfront, as the property slopes away, that area is going to stay level, are you going to have anything underneath that deck? Mr.Amelchenko testified there will be pilings, a block wall and probably a craw space. The house will be built on floor joists with a crawl space which naturally gets deeper by grade. He testified there is no basement and no living space in the crawl space. He testified, the structure as itself, is designed in accordance with the 15% of lineal footage for dormers, the 30 degree slope, and proposed two dormer roofs, that simply extend out over the beach elevation to the front of the house. Behind the elevation is an entire roof and the street side roof is the 30 degree roof structure which basically squeeses our loft level to inward, which requires dormers along the south and the westerly side to accomodate the house. We have conformed to the 17'6" requirement from the beachfront to the eve and the rate of the roof as it slopes back, and they have retained the house well within the 35' height requirements and the character of the home speaks for itself. All the exterior walls will be fire coated, even the roof will be fire resistant.

For the record Ms. Wright did not receive a copy of the Addendum to Denial Dated 12/5/96.

A motion for a 5 minute break was made, seconded and unanimously carried at 9:05 P.M., due to trouble with the recorder.
The Board returned from break at 9:14 p.m.

Ms. Wright in addressing Mr. Amelchenko stated in terms of the confusion is it your opinion that your plans were misinterpretded by the Construction Official as it relates to the slope and requirements of the architectural regarding the height etc.
Mr. Amelchenko testified that was his guess. If we are exceeding the dormer requirements in Mr. Ratz's estimation, I would be delighted to sit with him, give him the balance of the elevations which I believe would explain our position and we can certainly conform to that area.

Ms. Wright stated if there remains any misunderstanding it's also your position that you could make these plans comply or conform if in fact there is a problem with them as they are prepared. Mr. Amelchenko testified, absolutely, as it would

only be in the area of the dormer configuration.

Mr. Burke stated this poses a problem. We are looking at an official document done by the Boro Official stating that this variance has to apply, and we are hearing testimony that maybe I could convince, but this still stands. If we get to a point in this application where this might be a determining factor, then we're going to have to wait for an official termination from Mr. Ratz before this application can be completed.
We can go on with this application, but this problem might hold us up until another meeting.

Ms. Wright asked whether or not for the record, they expressed a willingness if there is a problem with these plans, and if they state for the record that the applicant would agree, wouldn't it be permissable for the Board to condition any approval that they might grant on conformance with the building note F.

Mr. Burke stated this is a new ordinance and he would be very apprehensive about doing what you said, because we are putting an open ended condition which is a large balloon as to what is going to be done and not done. Normally this Board, if there is a major revision like this, we require drawings, to show exactly what the changes are going to be before we would vote on somthing like that.

Mr. Amelchenko testified he is now proposing the setbacks for the north & south side yard setbacks at 5 ft., so we are not looking for variances on setbacks for the north or south side of the house. The only changes on the plans are going to be on the denial of 12/5/96 marked A-2. He testified there will be 6 dormers. He is conforming to 17'6". The square footage of the deck is 172.5 sq,ft. it is 7½ x23 ft..

William Reynolds - 315 First Avenue was sworn in by Mr. Byrnes.
He questioned the letter dated 11/25 marked as A-3, form sent to the people within 200 ft. Mr. Reynolds asked Michael Parziale if that paragraph describes to you what is taking place here tonight? Mr. Parziale testified yes. Mr. Reynolds said people getting this would think you are going to reconstruct a 2 story structure with a 2 story structure? Mr. Parziale testified he is going to construct a 2½ story structure.
Ms. Wright stated in refering back to the denial that was the purpose for the notice of hearing, we started the hearing along those lines that there was reference to the owner wishes to replace fire destroyed 1 story 2 family dwelling on a lot with 2 structures and 3 dwellings with a new 2 story 2 family dwelling. That was the construction officials proposal as to what was newly proposed and that was the purpose for the initial notice. That together with the plans clearly under these circumstances demonstrated what the applicant was and still

is trying to do.
Mr. Reynolds asked Mr.Parziale if he knew what off street parking is? Mr. Parziale testified yes he does. He testified on the apron 3 ft. from the property lines. Mr. Reynolds asked him when was the last time you parked cars in the garage as a matter of routine? Parziale testified he didn't recall. Mr. Reynolds stated you rented that property during the summer - did your tenants use that garage? Parziale testified no he didn't want them to use it, because he didn't want them to go in. He stated he made them use the apron.
Mr. Byrnes tried to explain to Mr. Reynolds that Mike has on his property 2 legal off street spaces located in the garage. The application that is before the board will need 6 spaces in order to comply with the ordinance. The applicant says he has 2 off-street spaces and is seeking a variance for the other 4. Mr. Reynolds questioned the height of the crawl space, and the flooring. It will be a cement floor and block wall.

Thomas J. Coan, 81 Curtis Avenue was sworn in by Mr. Byrnes.
He asked Mr.Parziale, on the second floor of the house that existed before, how many bedrooms were there? Mr. Parciale testified 3 bedrooms. Mr. Coan said you had already testified there were 3 bedrooms on the first floor. Mr. Parziale stated that is correct. Mr. Coan stated in your previous testimony you and your Mom just want what you had, you had 6 bedrooms and now you'll have 8 bedrooms, and you had 2 stories and now you'll have 2½, is that correct? Parziale testified that is correct. Mr. Coan said in terms of the square footage, I really didn't count that attic, as I didn't think that was space, but according to my calculations it is 435 square feet more than you had before, is that correct? Parziale testified he is not sure as he didn't do that calculation. Mr. Coan asked him if he ever owned a non conforming use before? Ms. Wright wasn't sure it is relavent to this applicant. Mr. Coan stated this is a non conforming use is it not, your Mother bought it in 1982, did you advise her of the risks of owning a nonconforming structure or were you not aware of it? Parziale testified he was not aware of it at the time. Are you aware of the risk now in light of what has happened? Parziale testified that is why we have the Board of Adjustment to address those risks. Were you aware of the zoning in 1982? Pariale said he was not.
Mr. Coan has not more questions for Mr. Pariale.

Ms. Wright called Richard Lee Hovaugh, 185 Harbour Inn Rd. Bayville, N. J. who was sworn in by Mr. Byrnes. Mr. Hovaugh is a professional Planner since 1960 and since 1964 a consulting planner in N. J., has worked in every municipality in Monmouth County over the last 30 years. Licensed professional Planner.
Mr. Byrnes and the Board felt Mr. Hovaugh is a qualified professional planner in regards to this application.

Mr. Hovaugh testified he is familiar with the Manasquan ordinances for this property and he reviewed the Parziale application. When asked by Ms. Wright, if he would state whether of not the application proposed use for the subject property would be compatable with the surronding property in the areas in general. For the record exhibits of photos and area map were marked A-26 which was submitted by Mr. Hovaugh, bearing a date of 9/5/96. Mr. Hovaugh testified on this board are 6 photographs and a section of 3 pages of properties from the Manasquan tax map. There are 3 walks which are between First Avenue & the boardwalk not to sacle as they are photo copies of the tax map. The three photos on the top #1 taken from First Avenue in front of the property looking in a southerly direction # 3 same location in a northerly direction and # 2 being from the walkway, one property north from the subject property, up the center of these lots in a northerly direction. Below are 3 more photos- #4 taken in front of the propertry in a southerly direction, #6 the same in a northerly direction and # 5 taken from the boardwalk in front of property. The photos taken along the walkway show all the properties that have 2 structures, and the height of the structures. There are a total of 75 lots listed within these 3 blocks and of those 75 lots, 57 or 76% have a minimum of 2 dwellings on a lot, 39% have 3 or more dwellings on a lot. Mr. Hovaugh testified the visual aspect would be improved over what previously existed and certainly what remains from the fire. There are 17 out of the 75 that have one dwelling on a lot.

Margaret Friday,327 First Avenue, was sworn in by Mr. Byrnes. She questioned Mr. Hovaugh as to when he made his survey, as she lives there and never saw him. Mr. Hovaugh said he was there from 10 A.M. and worked his way from Riverside Drive and spoke to quite a few people. She said she has lived there for 5 years and that is more people than she has seen on that street.

William Reynolds, 315 First Avenue came forward and asked Mr. Hovaugh, the 3 blocks from Riverside to Whiting to Pompano to Brielle Rd, did you notice any difference in the density in those lots? Mr. Hovaugh said the height on the individual buildings was different.

Thomas J.Coan, 81 Curtis Avenue, asked Mr. Hovaugh when you did your survey, you said you just went around and looked and checked out eadh house, munbers and everything, you really have no basis to know if those were legal units or illegally created units do you? Mr. Hovaugh testified no he doesn't. Mr. Coan said you didn't go to the water & sewer dept. and check for how many water meters were paid for each house to determine how many units were in that house? Mr. Hovaugh testified no he did not. Mr. Coan said his next question deals with the Municipal Land Use Laws. "Item # E -40:55D-2 - Purpose of the act. E- To promote the establishment of appropriate population

densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment". This is a single family zone and your saying that a 3 family unit is going to be beneficial to a single family zone. Mr. Hovaugh testified that is correcrt. T.J.Coan asked how that works. Mr. Hovaugh testified he has described the character of the zone district and it is predominently a zone district when properties are occupied by 3 dwellings or more per property. It is in charateristic of this district at this time. It also happens to be an ocean front location, an opportunity to enjoy that view. T.J. Coan, asked if there is any reason why one family in one home can't enjoy that view. T.J. Coan stated the town fathers wrote that zoning ordinance, they acknowledged that the density was too great. Mr. Hovaugh said 3 is better. T.J.Coan asked why wouldn't they have zoned it 3 family homes then if they felt it was better. Mr. Hovaugh is at a loss to know that. T.J.Coan asked are you familiar with the Manasquan Zoning Ordinance article # 14 on Non-conforming uses. Mr. Hovaugh testified yes he has read it but connot quote it. T.J.Coan said item # 2 - Any non-conforming building which has been destroyed or damaged by fire, explosion, act of God or by a public enemy to the extent of seventy percent (70%) or more of it's assessed valuation shall thereafter conform to the provisions of this chapter. T.J.Coan -so apparently there's one unit on that property, so aparently that property conforms to this chapter, does it not? Mr. Hovaugh technically correct - yes, however somthing still has to be done with the remaining damaged building. T.Coan agreed with that. T.J.Coan said wouldn't the best use of that property be to convert the garage back to a garage and build this as a single family home? Mr. Hovaugh said he doubts that would be economically feasable, given the character to the neighborhood. T.J.Cowan - we understand the land has great value. Mr. Hovaugh said yes it has great value, but it's not a great value for a single family dwelling, your not going to sell a multimillion dollar house at that location. T.J.Coan had no further questions.

Mr. Reynolds came back stating-"Mr. Parziale I like your house and I like you, but I'm against some of the things I see going on down the beach -don't try and sneak somthing else in the basement. I'd like to see a two family residence. No more expansion here".
David Altman of First Avenue also supported the Parziales.
Mrs. Reynolds, 315 First Avenue came forward, was sworn in and compalined about the parking.
Ellen Dana, 365 Beachfront came forward, was sworn in and asked why all of a sudden you can't park with in that white line in the back of your property. She stated these people lost their home due to a fire in the American Timber Co. property, they are here asking to replace what they had, why is it such a big deal for the town to give them back what they had, and of course they are going to better it.

J. T.Coan came forward and stated it is unfortunate what happened, it is a very immotional night, my thing is, it is a very very big request for a multi-family use on the beachfront which is not zoned for it. I believe if it was a very big single family home, or a ten bedroom single family home, that I believe is in conforming, or if the garage apartment was to remian and a modist single family home would be built on the front it would be still require a use variance it would be very understandable to grant it, but I would like to read from an unpublished decision, that I think would answer some questions and shed some light on the enormity of the request here. This is a decision in which Florence & Marie Breunig v. John O'Grady and the Board of Adjustment of Manasquan May 23, 1995.
"While the board may find that improvement on the dwelling would further the municipal land use law, when that improvement is a massive expansion of the dwelling, the board may not make a perfunctory determination that the benefit outweighs the detriment. Without the raequisite balancing, merely improving a dwelling will not satisfy the criteria set forth in N.J.S.A. 40:55D-70(c) (2). Furthermore, plaintiffs correctly note, improving a dwelling, such that the project advances the purposes of the MLUL, does not necessarily require expansion of such dwelling. That's why I get back to what they had and what they started with and what the request is now. I do feel for them and I do feel that somthing should be built on that property but I feel it should be a large single family home giving up the garage apartment or it should be a moderate single family home keeping the garage apartment. He read from the decision of Judge Lawson.
Mr. Morrissey, 19 James Place, feels it should be granted as she has suffered enough.
Sheryl Parziale, 2230 Bridge Ave., Point Pleasant, was sworn in by Mr. Byrnes. She testified she is the daughter of Carmela and just wanted to say, her mother lost a lot, she worked a long time, and lost 3 units and wants her to have the 3 back.

Mr. Parziale testified that this was his mother & fathers dream. I request the board grant Carmela Parziale's dream.

A motion was made to close the public hearing, seconded and followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, J.Burke, N.Hood, J.Miller and R.Lloyd.

There was discussion between the board members N.Hood, J.Miller on what they are requesting. Mr. Burke stated the Boro does have a planner, if the Board would like to hear Mr. Szymanski's version of this property and this application, we can do that. The Board agreed to have Mr. Szymanski do a review of this application.
Mr. Burke stated, the way it looks now, you will not have your 5 votes needed for an approval, unless someone changes their mind.

MR. Lloyd, Mr. Hood and Mrs. Kazenmayer, could not change their minds at this time. Mrs. Kazenmayer feels that it is an excellent idea to hear our planner. She thinks they need to know that. This case is very complex and very emotional.

Ms. Wright said the strict instruction of this ordinance on the property would be unfair to the property owners. Tragedy brought this upon them, they did not seek this. If there was ever a basis for a use variance this is one.

A motion and second was made for a 5 minute recess followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, J.Burke, N.Hood, J.Miller and R.Lloyd.

The Board returned from recess at 11:20 p.m. with the following Roll Call - R.Brittle, M.Kazenmayer, E.Lyons, J.Burke, N.Hood, J.Miller and R.Lloyd.

Ms. Wright, at this time the applicants will continue to the next meeting which will be on December 18, 1996.

A motion was made to continue this application to our regular scheduled meeting on December 18, 1996 and to request Mr. Szymanski our town Planner to be present at that meeting, by J.Miller, seconded and followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, J.Burke, N.Hood, J.Miller and R.Lloyd.
A waiver of time requirements was made by Ms.Wright.

A motion was made to have Mr. Szymanski testify at the December 18, 1996 meeting at the cost of the Board, R.Lloyd, seconded by J.Miller, followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, N.Hood, J.Miller, R.Lloyd."NO"-J.Burke.

A motion to adjourn was made, seconded and unanimously carried at 11:40 P.M.

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

DECEMBER 9, 1996 SPECIAL MEETING AGENDA

On Monday December 9, 1996, the Zoning Board of Adjustment of the Borough of Manasquam, will hold a special meeting at 7:30 p.m. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACATION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 32-96 - Michael & Carmela Parziale - 305 Beachfront

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

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JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Ronald Lloyd, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Manasquan Board of Adjustment of the Borough of Manasquan to the best of my ability (So help me God).*

Ronald D Lloyd

Sworn and subscribed to before me this 20th day of August A.D. 1997

P.O. Address 134 Curtis Place

Manasquan, N.J.

William Byrnes, Esq
Attorney at Law State of N.J.

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
No. 143N

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COUNTY OF MONMOUTH
NEW JERSEY 08736

JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

CONSTRUCTION OFFICIAL AND CODE ENFORCEMENT DEPARTMENT

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Michael Parzialle, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of MANASQUAN BOARD OF ADJUSTMENT of the Borough of Manasquan to the best of my ability (So help me God).*

Michael Parzialle

Sworn and subscribed to before me this 21st day of May, A.D. 1997

P.O. Address 394 First Ave.

Manasquan, New Jersey

William Byrnes, Esq
Attorney at Law, State of N.J.

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
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BOROUGH OF MANASQUAN
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COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Marie Applegate, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of the Manasquan Board of Adjustment, of the Borough of Manasquan to the best of my ability (So help me God).*

Sworn and subscribed to before me this 7th day of January A.D. 1997

Marie Applegate

P.O. Address: 10 Sims Ave.

Manasquan, N. J.08736

William Bynar, Esq
Attorney at Law
State of N.J.

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
No. 143N

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, James Miller, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of the Manasquan Board of Adjustment, of the Borough of Manasquan to the best of my ability (So help me God).*

James R. Miller

Sworn and subscribed to before me this 7th day of January A.D. 1997

P.O. Address: 21 Pearce Ave..

Manasquan, N. J.08736

William Bynoe, Esq
Attorney at Law
State of N.J.

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
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COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Noel Hood, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of the Manasquan Board of Adjustment, of the Borough of Manasquan to the best of my ability (So help me God).*

Sworn and subscribed to before me this 7th day of January A.D. 1997

P.O. Address: 161 Beachfront.

Manasquan, N. J.08736

William Byrne, Esq
Attorney at Law
State of New Jersey

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
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COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Thomas J. Coan, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of the Manasquan Board of Adjustment, of the Borough of Manasquan to the best of my ability (So help me God).*

Sworn and subscribed to before me this 7th day of January A.D. 1997

T. J. Coan

P.O. Address: 81 Curtis Ave..

Manasquan, N. J.08736

William Pyne, Esq
Attorney at Law
State of N.J.

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
No. 143N

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BOROUGH OF MANASQUAN
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JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

OATH OF OFFICE

State of New Jersey

ss.

County of Monmouth

I, Joanne Van Stolk, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the Authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of the Manasquan Board of Adjustment, of the Borough of Manasquan to the best of my ability (So help me God).*

Sworn and subscribed to before me this 7th day of January A.D. 1997

_____

P.O. Address: 440 Cedar Ave..

Manasquan, N. J.08736

_____

* person taking the oath has the option of including "So help me God," if he so desires.

Chap. 217 P.L. 1971
R.S. 41:1-1 - 41:1-3
No. 143N

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

1997 BOARD OF ADJUSTMENT - CALENDER
Council Chambers

Wednesday	January 15, 1997
Wednesday	February 19, 1997
Wednesday	March 19, 1997
Thursday	April 17, 1997
Wednesday	May 21, 1997
Wednesday	June 18, 1997
Thursday	July 17, 1997
Wednesday	August 20, 1997
Wednesday	September 17, 1997
Wednesday	October 15, 1997
Wednesday	November 19, 1997
Wednesday	December 17, 1997
Wednesday	January 21, 1998

A G R E E M E N T

THIS AGREEMENT made on the 15th date of January, 1997

BETWEEN THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MANASQUAN, hereinafter designated as "BOARD"

AND William Byrne, an attorney at law of the State of New Jersey

WHEREAS, the Board recognized that it is empowered and permitted by the Municipal Land use Law, Chapter 291, Laws of New jersey, 1975, and the Land Use Procedures Ordinance of the Borough of Manasquan, to appoint and affix the rate of compensation of the attorney for the Board;

AND WHEREAS, William Byrne, an attorney at law of the State of New Jersey, has been duly appointed by Resolution of the Board as attorney for the Board,

AND WHEREAS, the most recent draft of the revised Local Public Contract Guidelines and Local Public Contract Regulations dated August 13, 1976, drawn and prepared by the Local Finance Board of the Division of Local Government Services, urges and recommends that contracts be entered into with professionals retained by the public agency;

AND WHEREAS, the members of the Board further recognize that it is to the best interests of the Board and the inhabitants of the Borough of Manasquan that a Contract be entered into between it and its attorney;

W I T N E S S E T H :

FOR AND IN CONSIDERATION of the sum of One Dollar ($1.00) and of the good and valuable considerations, to each in had paid one to the other, the parties AGREE as follows:

1. That William Byron, Esq., be and he is hereby specifically retained to perform all legal services required by the Board.

2. That William Byron, Esq., shall be paid for services rendered at the rate of $105.00 dollars per hour.

3. That in addition to the hourly rate, any and all costs incurred will be reimbursed by the Board on a dollar-for-dollar basis.

4. That the within Agreement shall terminate at such time as William Byron, Esq., is no longer the duly appointed attorney for the Board.

IN WITNESS WHEREOF, the parties hereby have caused these presents to be executed by its proper officers the day and year first above written.

ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF MANASQUAN

By: _____
Chairman

By: Dave Cupplegate
Secretary

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "A"

RE: CHAIRMAN

WHEREAS, Article II, Section 2 of the Land Use Procedures ordinance of the Borough of Manasquan, Ordinance No. 1006 provides that the Zoning Board of Adjustment of the Borough of Manasquan shall elect a Chairman from its members:

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan that John Burke be and is hereby elected and designated as Chairman of the Zoning Board of Adjustment of the Borough of Manasquan, effective as of January 15, 1997, and whose term as Chairman shall terminate at the close of the first regular meeting of the Board held in the month of January, 1998.

YES: T.J.Coan, J.Miller, N.Hood, P.Walsh R.Brittle

NO: None

The foregoing is a true copy of a resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organization meeting conducted on January 15, 1997.

Marie Applegate
MARIE APPLEGATE, Secretary to
the Zoning Board of Adjustment
of the Borough of Manasquan

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "B"

RE: VICE-CHAIRMAN

WHEREAS, Article II, Section 2 of the Land Use Procedures ordinance of the Borough of Manasquan, Ordinance No. 1006 provides that the Zoning Board of Adjustment of the Borough of Manasquan shall elect a Vice-Chairman from its members:

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan that Robert Brittle _____ be and is hereby elected and designated as Vice-Chairman of the Zoning Board of Adjustment of the Borough of Manasquan, effective as of January 15, 1997, and who term of Vice-Chairman shall terminate at the close of the first regular meeting of the Board held in the month of January, 1998.

ROLL CALL VOTE:

YES: T.J.Coan, J.Miller, N.Hood, P.Walsh, J.Burke

NO: None

The foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organizational meeting conducted on January 15, 1997.

Marie Applegate

MARIE APPLEGATE, Secretary to
the Zoning Board of Adjustment
of the Borough of Manasquan

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "C"

RE: MEETING DATE

WHEREAS, the "Open Public Meeting Law," public laws of 1975, Chapter 231, requires that annual notice of the public meeting of the public body such as the Zoning Board of Adjustment of the Borough of Manasquan be disseminated within seven days following the annual organization or reorganization of such a public body;

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan as follows:

1. That the third Wednesday of each month shall be designated as the regular monthly meeting of the Zoning Board of Adjustment of the Borough of Manasquan, except that when the third Wednesday of any month falls on a holiday celebrated by the Borough of Manasquan, then and in that case a regular meeting of the Zoning Board of Adjustment of the Borough of Manasquan shall be designated by the Board at the regular monthly meeting immediately prior to that which shall fall on a holiday, or on any other date as determined by the Zoning Board of Adjustment of the Borough of Manasquan, as set forth herein, and public notification of the same shall be made in accordance with the provisions of the Open Public Meeting Law;

AND BE IT FURTHER RESOLVED that each regular meeting of the Zoning Board of Adjustment of the Borough of Manasquan shall convene at 7:30 p.m., and be followed by a work session at the end of the regular meeting, and that the location of the same

shall be at the Borough Hall, 15 Taylor Avenue, Manasquan, New Jersey:

AND BE IT FURTHER RESOLVED that a copy of this Resolution be disseminated and published according to law within seven days of the date hereof.

ROLL CALL VOTE:

YES: T.J.Coan, J. Miller, N.Hood, P.Walsh, R.Brittle, J.Burke

NO: None

MEETING DATES:

Wednesday, February 19, 1997

Wednesday, March 19, 1997

Thursday, April 17, 1997

Wednesday, May 21, 1997

Wednesday, June 18, 1997

Thursday, July 17, 1997

Wednesday, August 20, 1997

Wednesday, September 17, 1997

Wednesday, October 15, 1997

Wednesday, November 19, 1997

Wednesday, December 17, 1997

Wednesday, January 21, 1998

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organizational meeting conducted on January 15, 1997.

Marie Applegate

MARIE APPLEGATE, Secretary to the Zoning Board of Adjustment of the Borough of Manasquan

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "D"

RE: OFFICIAL NEWSPAPERS

WHEREAS, the "open Public Meeting Law," public laws of 1975, Chapter 231, provides that various notices be transmitted and/or published in two newspapers most likely to inform the people within the jurisdictional area of the Zoning Board of Adjustment of the Borough of Manasquan and that one of said newspapers be designated as the "official newspaper,":

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan that its official newspaper be and the same is hereby designated to The Coast Star, 13 Broad Street, Manasquan, New Jersey, and that the secondary newspaper shall be The Asbury Park Press, Press Plaza, Asbury Park, New Jersey.

ROLL CALL VOTE:

YES: T.J.Coan, J.Miller, N. Hood, P.Walsh, R.Brittle, J.Burke

NO: None

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organizational meeting conducted on January 15, 1997.

Marie Applegate

MARIE APPLEGATE, Secretary to
the Zoning Board of Adjustment
of the Borough of Manasquan

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "E"

RE: APPOINTMENT OF BOARD OF ADJUSTMENT ATTORNEY

WHEREAS, John Burke offered the following Resolution and moved its adoption, seconded by James Miller; and

WHEREAS, Article 11, Section 3 of Ordinance No. 1006 of the Borough of Manasquan entitle "THE LAND USE PROCEDURES ORDINANCE OF THE BOROUGH OF MANASQUAN," adopted by the Borough Council of the Borough of Manasquan, January 24, 1977, provides for the appointment of an attorney by the Board of Adjustment of the Borough of Manasquan; and

WHEREAS, the Local Public Contract Law (N.J.S.A. 40A:11-1, et seq.) requires that the Resolution authorizing the appointment of an attorney to the Board of Adjustment for "professional services" without competitive bidding must be publicly advertised:

AND WHEREAS, each member of this Board has reviewed the form of Agreement with regard to legal services to be entered into as between it and William Byrnes, Esq.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan as follows:

1. That William Byrnes Esq., be and he is hereby appointed as Attorney for the Board of Adjustment of the Borough of Manasquan for a term of one year. The effective date of this appointment shall be as of January 15, 1997, and the same shall

terminate at the close of the first regular meeting of this Board held in the month of January, 1998.

2. The aforesaid appointment is made without competitive bidding as "professional services" under the provisions of the local Public Contracts Law because the services to be performed are to be performed by a recognized professional, licensed and regulated by law.

3. The Chairman of this Board be and he is hereby authorized to enter the aforementioned Agreement on behalf of this Board with William Byrnes Esq., with regard to legal services to be rendered and that a copy of said Agreement shall be kept on file with the Secretary of the Board.

4. That a copy of this Resolution be published according to law within ten days of adoption.

ROLL CALL VOTE:

YES: T.J.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke

NO: None

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organization meeting conducted on January 15, 1997.

Marie Applegate

MARIE APPLEGATE, Secretary to
the Zoning Board of Adjustment
of the Borough of Manasquan

BOROUGH OF MANASQUAN
ZONING BOARD OF ADJUSTMENT

RESOLUTION "F"

RE: APPOINTMENT OF SECRETARY TO ZONING BOARD OF ADJUSTMENT

WHEREAS, James Miller offered the following Resolution and moved its adoption, seconded by Thomas J. Coan; and

WHEREAS, Article 11, Section 2 of Ordinance No. 1006 of the Borough of Manasquan entitled "THE LAND USE PROCEDURES OR ORDINANCE OF THE BOROUGH OF MANASQUAN," adopted by the Borough Council of the Borough of Manasquan, January 24, 1977, provides for the appointment of Secretary to said Board;

AND WHEREAS, the funds are available for this purpose:

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Manasquan as follows:

1. That Marie Applegate be and is hereby appointed as Secretary of the Zoning Board of Adjustment of the Borough of Manasquan for a term of one year. The effective date of this appointment shall be as of January 15, 1997, and the same shall terminate at the close of the first regular meeting of this Board held in the month of January, 1998.

2. That the salary of said Secretary shall be in the amount and payable in the manner as shall be fixed by the Borough Council of the Board of Manasquan.

3. That a copy of this Resolution be published according to law within ten days of adoption.

ROLL CALL VOTE:

YES: T.J.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke

NO: None

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Manasquan at its organization meeting conducted on January 15, 1997.

Marie Applegate

MARIE APPLEGATE, Secretary to
the Zoning Board of Adjustment
of the Borough of Manasquan

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

SECOND ADDENDUM TO REGULAR MEETING AGENDA

MANASQUAN ZONING BOARD OF ADJUSTMENT

JANUARY 15, 1997

OLD / NEW BUSINESS

APPLICATION - John & Benedetta O'Grady - 303 Beachfront
Request for a special meeting.

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT
JANUARY 15, 1997 MEETING AGENDA

On Wednesday January 15, 1997, the Zoning Board of Adjustment of the Borough of Manasquan will hold their regular meeting at7:00 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

REORGANIZATION SESSION:

Swearing in of reappointed members to be followed by following Reorganization matters:

1. Resolution A - Naming of Chairman
2. Resolution B - Naming of Vice Chairman
3. Resolution C - Meeting Dates
4. Resolution D - Official Newspapers
5. Resolution E - Appointment of Attorney
6. Resolution F - Appointment of Secretary

APPLICATION - 32-96 - Cont.- Michael & Carmela Parziale
305 Beachfront

APPLICATION - 28-96 - Jamaes Julian - 14 Main Street

APPLICATION - 1-97 - Frank & Patricia Federici -407 Beachfront

APPLICATION - 2-97 - Thomas Bateman - 169 Lake Avenue

RESOLUTION - 12-96 - John & Benedetta O'Grady -265 Beachfront

RESOLUTION - 31-96 - Robert Scerrato - 373 Beachfront

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - DECEMBER 18,1996
MANASQUAN BOROUGH HALL, 15 TAYLOR AVENUE, MANASQUAN, N. J.

The Manasquan Zoning Board of Adjustment held their regular meeting on December 18, 1996 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke, N.Hood, J.Miller. ABSENT - J.VanStolk, R. Lloyd.

Mr. Burke explained the procedure of the Board of Adjustment to the audience.

APPLICATION - 7-93 -Leggett's - Request for extension of time.
Mr. Hood questioned giving them an extension, as it was a variance passed back in 1993. Mr. Burke said the State had extended all those variances up to the end of this year, which included this one.

Mrs. Walsh was on the Board at the time this case came up and her recolection was that the only alcoholic beverages served on the premises will be provided by waitress service and there will be no bar facility in the new restaurent. If her memory serves her correctly a year later they came before Council asking for a liquor license into this facility. The Council turned them down. Mr. Burke believes the expansion of the liquor license was just to be able to consume alcohol in that area not to serve it in the area. Mrs. Kazenmayer stated if they were seated for dinner they could be served by waitress, otherwise no.
Mr. Byrnes said his recollection is different from Mrs. Walsh's. His recollection is that the application before Mayor and Council was withdrawn and they would still have to repeat that process and start over again.

A motion by Mr. Brittle, seconded by Mr. Miller to extend resolution 7-93 Leggetts, for 9 months from this date, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J. Burke J.Miller. ABSTAIN - N.Hood.

A motion to approve the minutes of November 20, 1996 was made by M.Kazenmayer, seconded by P.Walsh followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J. Burke, N.Hood, J.Miller

A motion to approve the minutes of the special meeting of October 10, 1996 was made by M.Kazenmayer, seconded by J. Miller, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer

E.Lyons, J.Burke, N.Hood and J. Miller. ABSTAIN - P. Walsh.

A motion to approve the minutes of the special meeting of December 9, 1996 was made by J.Miller seconded by E. Lyons, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer, E.Lyons, P. Walsh, J.Burke N.Hood and J.Miller.

For the record Mrs. Walsh did listen to the tapes of the October 10, 1996 meeting.

For the record, Mr. Ronald Lloyd is no longer a member of this Board, as he has taken a position with the Borough and the town Council has recommended that he not appear on the board any more.

APPLICATION - 32-96 - Cont. Michael & Carmela Parziale-305 Beachfront.
Mr. Byrnes stated we have some new exhibits which have been marked - blue prints on plans of the house at the Dec. 9, 1996 meeting marked A-7, they have now been revised and bear the date of Dec. 12, 1996, accordingly the new set has been marked as exhibit A-7A. In addition there are 3 documents that will be marked as Borough exhibits, B-1 is a memo from construction official Ratz to the board chairman in regards to this application. Ms. Wright received her copy yesterday 12/17/96.
B-2 is a 4 page memorandum from Paul Szymanski Planning Development Consultant dated 12/18/96 to the Zoning Board of Adjustment in regard to the subject property. Ms. Wright testified she received a copy of that just before this meeting began, and wanted to request 5 minutes as she has not had the time to share the contents with the professionals. Exhibit B-3 will be an affadavit from Board member Patricia Walsh, certifiying that she has listened to the tapes of 12/9/96.

Mr. Byrnes has given Ms. Wright permission to go over the exhibit with her professionals and the Board will read over Mr. Szymanski's report. Being Ms. Wright will take a little longer, the Board will continue with the meeting.

RESOLUTION - 25-96 Terry Scimeca - 84 Curtis Avenue
The resolution was read by Mr. Byrnes.
A motion to approve the resolution was made by Mr. Lyons, seconded by Mr. Hood, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer, E. Lyons, P.Walsh, J.Burke and N. Hood.

The Board returned to Application 32-96 - Parziale.
Ms. Wright put herself on record as attorney for the applicant. She testified exhibit B-1 is a very important and critical document. She stated that the construction official has stated in his memo that in essence the non-conforming use that remains

on that property is such that it may be restored to the same non-conforming use existing before such damage. She stated her understanding would be that a building permit should be issued and that a use variance is not required. She feels it is inappropriate to continue with this tonight.
Mrs. Walsh spoke to Mr. Ratz and he said it was made by visual observation and when she asked him what was used in terms of measurement, dollar value, he had done no calculation. He said normally he has a very complicated formula on which to base the determination. He said he was not able to put the numbers together for tonight. She said based on her conversation with Mr. Ratz, she is very uncomfortable voting on that issue.
Mr. Miller had basically the same conversation with Mr. Ratz and he agrees with Mrs. Walsh. The Board and Ms. Wright agreed they would need more information from Mr. Ratz.

Mr. Byrnes quoted from 107-82 -"any non-conforming building which is destroyed or damaged by fire, explosion, act of God or by public enemy to the extend of (70%) or more of its assessed valuation shall thereafter conform to the provisions of this chapter. Where more than 30% of the assessed value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage." Total destruction by an accident terminates use. Mr. Ratz states that " his opinion is that at least 30% of the structure damaged by fire is still remaining, and therefore section 107-82 permits the nonconforming use to remain. Mr. Byrnes feels the same as Mrs. Walsh & Mr. Miller.

For the record this application was put off until the January 15, 1997 meeting, motion being made by Mrs. Kazenmayer, seconded by Mrs. Walsh, followed by the following vote: "YES" R.Brittle., M.Kazenmayer, E.Lyons, P. Walsh, J.Burke, N.Hood and J.Miller.

APPLICATION - 28-96 - James Julian - 14 Main St.
A letter from Mr. Julian apologizing that he could not get his notices out on time, requesting to be heard at the January meeting.
A motion by P. Walsh, seconded by M.Kazenmayer was made to continue this application to the January meeting, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J. Burke, N. Hood and J.Miller.

APPLICATION - 31-96 Robert Scerrato - 373 Beachfront.
Mr. Byrnes marked the Boards file as A-1 To A-8. Block 187 Lot 1. R-4 Zone. Owner wishes to construct second floor addition to existing dwelling. Denied for the following reasons:
107-27 Front Setback - 15 Ft. required, 13.5 Ft. existing. Side Setback (South) - 5 ft. required, 2 ft. existing. Corner side setback (North) - 7 ft. required, 1.2 ft. existing. Lot Frontage - 30 Ft. required, 22.9 ft. existing - Beachfront, 18.4 ft. existing First Ave.. Maximum Lot Coverage - 50% maximum, 84%

existing - counting decks, 50% existing - driveway & house. And any other variances the Board may deem necessary. V-6 Flood zone - not applicable. Hardship Variance.
Mr. Robert Scerrato, 373 Beachfront, came forward and was sworn in by Mr. Byrnes.
Mr. Scerrato will amend his application tocorrect the side setback South from 2 ft. to 1.68 ft.and Corner side setback north from 1.2 ft. existing to a minus 1.2 ft. existing. Front yard set back the wood deck is a foot from the property line on the south east corner should be 1 ft. existing not 13.5 ft.

Mr. Scerrato wants to move his existing sliding glass door and sliding window, because after 13 years of trying to find a product that doesn't leak, he has come to the conclusion to install Anderson casements. I am before the Board for a 4 ft. 6 inch extension that will give me 3 seperate casements and no more sliding glass door or sliding window, and he hopes no more leaks. He wil put the door around to the south side.

A motion to close the public hearing was made by M.Kazenmayer, seconded by P. Walsh, followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke N.Hood, and J.Miller.

A motion for a favorable resolution was made by M.Kazenmayer sceconded by J.Miller, followed by the following vote: "YES"
R. Brittle, M.Kazenamayer, E.Lyons, P. Walsh, J.Burke, N.Hood and J. Miller.

RESOLUTION - 12-96 John & Benedetta O'Grady -265 Beachfront
For the record Kevin Thomas, Attorney for the applicant came forward. The plans which were to be submitted to the Board 10 days before the meeting, were not received, in regards to the basement area and the shower. It will be cleared up before the final plans are received. Mr. Thomas testified the height of the building shall comply with the ordinance in effect at the time the building permit is pulled. Revised plans submitted were marked into evidence as A-8B - 4 pages dated 11/12/96, by Ronald Sebring. Mr. Thomas's letter of 11/25/96 was marked as A-14.
New plans will be submitted to show the bath in the basement has been removed and there will be no apartment down there.
A final vote will take place at the January 15, 1997 meeting providing final plans are submitted to the Board 10 days prior to the meeting date.

A motion was made to continue this application to the January 15, 1997 meeting by Mr. Brittle, seconded by Mr. Miller, followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke, N.Hood and J. Miller.

A motion for a 5 minute recess at 9:40 p.m. was made by P.Walsh, seconded by J.Miller, followed by the following vote: "YES"- R.Brittle, M. Kazenmayer, P.Walsh, J.Burke. J.Miller. "NO"- E.Lyons, N.Hood.

The Board returned from recess at 9:45, with the following roll call: R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke, N.Hood and J. Miller.

RESOLUTION - 26-96 - Donald & Marie Wilderotter - 66 Mohegan
The resolution was read by Mr. Byrnes.
A motion was made by M. Kazenmayer for a favorable resolution, seconded by R.Brittle, followed by the following vote: "YES"- R.Brittle, M.Kazenmayer, E.Lyons, J.Burke and N.Hood.

RESOLUTION - 29-96 - Charles & Sharon O'Malley - 76 Marcellus
Mr. Byrnes read the resolution.
A motion for a favorable resolution was made by P.Walsh, seconded by M.Kazenmayer, followed by the folling vote: "YES" - R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke, and N.Hood.

The Budget was approved by the Board, with the changes made by Mr. Burke.

A motion was made to go into executive session without employees by Mr. hood, seconded by P.Walsh, followed by the following vote: "YES" - R.Brittle, M.Kazenmayer, E.Lyons, P.Walsh, J.Burke,. N.Hood and J.Miller.

The Board was back from executive session at 11:05 p.m. with a vote of 7 to 0.

A motion to adjourn at 11:05 p.m. was made and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

ADDENDUM TO REGULAR MEETING AGENDA

MANASQUAN ZONING BOARD OF ADJUSTMENT

JANUARY 15, 1997

OLD / NEW BUSINESS

APPLICATION - 8-97 - Gertrude Rossetti - 50 First Avenue
Request for a special meeting.

Yours truly,

Marie Applegate

Marie Applegate, Secretaru
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

JOHN L. WINTERSTELLA
Mayor

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - JANUARY 15, 1997
MANASQUAN BOROUGH HALL, 15 TAYLOR AVENUE, MANASQUAN, N. J.

The Manasquan Zoning Board of Adjustment held their regular meting on January 15, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke called the meeting to order at 7:05 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: J. Miller, N.Hood, P. Walsh R.Brittle, J.Burke
ABSENT: J.Van Stolk, M.Kazenmayer, E.Lyons.

A motion to approve the minutes of December 18, 1996 was made by J.Miller, seconded by P.Walsh and unanimously carried.

Mr. Byrnes swore in new members and members that had to be reappointed. Members sworn in were Noel Hood, James Miller, and new member Thomas J. Coan.

Nominations were open for Chairman. J. Miller nominated John Burke for Chairman, seconded by P. Walsh. A motion to close nominations was made by P.Walsh seconded by J. Miller, followed by the following vote: "YES" T.Coan, J.Miller, N.Hood, P.Walsh, J.Brittle.
ROll Call vote for the nomination and election of Mr. Burke for Chairman "YES"- T. Coan, J.Miller, P.Walsh R.Brittle.
Resolution was read by Mr. Byrnes.

Nominations were open for Vice Chairman. N. Hood nominated Robert Brittle for Vice Chairman, seconded by J.Burke. A motion to close nominations was made by P. Walsh seconded by J.Miller. followed by the following vote: "YES"- T. Coan, J.Miller, N.Hood P. Walsh, J.Burke.
Roll Call vote for the nomination and election of Mr. Brittle for Vice President "YES" - T.Coan, J.Miller, N.Hood, P.Walsh and J.Burke. Resolution B was read for the record by Mr.Byrnes.

Resolution C - The setting of the official meeting dates for the year. It was read into the record by Mr. Byrnes. A motion to approve was made by J.Miller, seconded by P.Walsh, followed by the following vote: "YES"- T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle and J.Burke.

RESOLUTION D - The setting of the Official Newspapers. It was read into the record by Mr. Byrnes. A motion to approve was made by P.Walsh, seconded by T.Coan, followed by the following vote: "YES" - T.Coan, J.Miller, N. Hood, P. Walsh, R.Brittle, J.Burke.

RESOLUTION E - The appointment of Board of Adjustment Attorney. Mr. Burke made a motion to appoint Mr. William Byrnes as Board Attorney, seconded by J.Miller, followed by the following vote: "YES" - T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle and J.Burke. The Resolution was read into record by Mr. Byrnes.
A motion to approve was made by J. Miller, seconded by R.Brittle, followed by the following vote: "YES" - T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke.

RESOLUTION F - Appointment of Secretary to Board of Adjustment. A motion to nominate was made by J.Miller, seconded by T.Coan, followed by the following vote: "YES" - T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke. Resolution was read into reacord by Mr. Byrnes. The Oath of Office was administered to Marie Applegate by Mr. Byrnes.

Mr. J.Miller made a motion that the meeting be terminated tonight between 11:00 and 11:30 P.M.. seconded by P.Walsh, followed by the following vote: "YES" T.Coan, J.Miller, N. Hood, P. Walsh, R.Brittle and J.Burke.

APPLICATION - 32-96 - Cont. Michael & Carmela Parziale - 305 Beachfront. Nancy Wright put herself on record as attorney for the applicant.
Mr. Byrnes stated when we were last here in December, there was a request by the applicants that they be allowed to continue the matter under application in regard to the possibility that perhaps they would be allowed to rebuild the partially destroyed house, which is under the law, if the construction was less than 70% destroyed, it could be reconstructed back to it's former configuration. The Building Official Mr. Ratz had issued a one page letter in which he concluded that the house in fact does not qualify for being rebuilt. Two of the board members had spoken to Mr. Ratz and he indicated to both of them that he had not had time to put together the mathematical calculations that he normally utilizes in these types of cases. Mr. Byrnes stated that he then wrote to Mr. Ratz and requested that he do that. Subsequently, I received a telephone call from the Boro Attorney Ken Fitzsimmons, who advised me that his office had been contacted and that it was his understanding that the applicants wished to seek the issuance of a building permit for the original construction to be rebuilt, and that a meeting was scheduled with Mr. Ratz, Mr. Fitzsimmons, the applicants and their attorney Nancy Wright. That meeting took place this week, involving Mr. Ratz, Mr. Parziale and Mr. Amelchenko.
As a result of that meeting, Mr. Byrnes stated he received a telephone call from Ms. Wright, advising that a problem had arisen in that although Mr. Ratz had previously concluded that the house could be rebuilt, there were now two different but not unrelated issues. The first being that he indicated he would need approximately 2 more weeks to finish up his

calculations as to the square footage of the house, which the Board and I had requested and secondly, that there was now an issue as to what the square footage of the first floor would be. Apparently when the house was built it was 500 and some and with additions that were put on showed a different numnber, but the tax records show the original. Ms. Wright suggested that her client might be interested in a special meeting, in order to get this matter wrapped up. At the moment we have before us the original application which calls for construction of a larger house then existed at the time of the fire.
This morning Mr. Byrnes received a call from Ms Wright who advisedhim that she had gotten a letter from Mr. Ratz and that the 2 weeks of calculations that he needed to get done he had gotten done. The letter basically speaks for itself. There is at least 30% remaining and therefore it can be restored to the same non-conforming use as existed before the damage. Mr. Ratz also brought up another issue which was discussed before, that whether or not the house must conform to the V-6 flood zone requirements. There was a question as to whether or not the house must be constructed on pilings.

Mr. Byrnes stated in talking to Ms.Wright this afternoon it was my understanding that her client wishes to proceed not with the original application for a larger house that existed, but for an interpretation of Mr. Ratz's position as to, one, whether or not any variances are required to rebuild the structure and two, if so what are they?

Ms.Wright stated they want to go with an interpretation tonight, not with the original application and not with a use variance, seeking only an interpretation, but my understanding of what that interpretation would be, would be the Board after reviewing the Boro records and hearing more testimony and discussion of proposed plans would make an interpretation of what constituted the equivalent of rebuilding the same structure upon which the building permit could be issued.

Mr. Byrnes stated the original house calls for a house with living quaraters on 3 seperate levels, that was amended during the original testimony, to make the upper top most level just storage, no living area up there. Then there is the application for a building permit which Mr. Ratz has not issued yet, and there is an issue as to whether or not the structure needs to go on pilings.

Mr. Parziale testified they are going for a 2 story structure basically what's in the square footage that's been set by the Board, it's not a larger house square footage wise, it's acutally less by our calculations, and we are willing to testify to that fact and demonstrate that it is less square footage then we acutally had prior to the partial destruction of the house.

We want to straighten this out so my Mother can be made whole again. We need an interpretation here tonight so we can go forward with this.
Mr. Miller asked Mr. Amelchenko if the plans are the same plans that were issued to this Board? Mr. Amelchenko testified they are an evaluation of those very same plans, in fact they are with a red line overlay of those very same documents that the Board has in it's possession for the purposes of discussion.
The red line is what we believe may be proposed based on the square footage and based on the documents. It is an evaluation of those very same documents used as the base plans. It eventually will be a different set of plans.

Mr. Byrnes asked Mr.Amelchenko the following question. You have just stated that these are the plans that your client wants to build. Mr. Amelchenko answered yes. Ten minutes ago when Mr. Miller asked you the same question and your answer was we believe they may some day be those plans. Mr. Amelchenko testified they would like to build these documents exactly as they are before you now, exhibit A-7A.

Mr. Parziale was sworn in at a prior meeting and he testified that all the testimony he has given here tonight is true to the best of his ability. Mr. Amelchenko and Mrs. Parziale answered yes to the same question.

Mr. Byrnes stated this is not to be an interpretation of Mr. Ratz's letter to the extent as to what can and what can not be built, but rather we are dealing only with the original application of a 3 level, 2 family house to replace the structure that was destroyed in the October fire.
We heard testimony on that before hand from Mr. Parziale, Mr. Amelchenko also Mrs. Parziale, as well as several citizens, and Mr. Hobaugh who was the professional planner for the applicant.

Ms. Wright questioned Mr. Coan's attendance at the table.
Mr. Byrnes fells that there is a possibility, Mr. Coan, that your participation in this would in some way taint the application process, and he will ask that Mr. Coan not participate in this application.

Mr. Burke stated, so basically, what we want to do tonight is hear testimony from you, including the testimony from December, or youcan discontinue that testimony from December, basically proving to us that what your asking to build conforms with what was there before and that you can legally rebuild that structure, and that is what Mr. Ratz is asking us to tell him, that he can give you a building permit to go ahead and do it.

Mrs. Walsh is concerned that A-7A plans have no detail as to the use of the structure on the property, that there is also

no detail as to the lower basement area, the parking area, some elevations, how the building fits into the building envelope and the front yard setback on the beach side. Mr. Hood would like to see the elevation on the existing basement area. He feels it is an expansion of a one family house. Mr. Burke agrees with Mrs. Walsh. He is very leary of the third area and he still has a lot of reservations about whether this is an expansion or not. Mr. Brittle agrees with Mrs. Walsh. Mr. Miller agrees with Mrs. Walsh.

A motion to continue this application to February 20, 1997 at 7:30 P.M., was made by James Miller seconded by R.Brittle, followed by the following vote: "YES" J.Miller, N. Hood, P. Walsh, R. Brittle, J.Burke.

A motion for a five minute recess at 9:10 p.m. was made by J. Miller, seconded by P.Walsh, and unanimously carried.

Board returned from recess at 9:20 p.m. with the following roll call: T.Coan, J. Miller, N.Hood, P. Walsh, R.Brittle, J.Burke

APPLICATION - 28-96 - James Julian - 14 Main Street
Mr. Byrnes marked the boards file as A-1 to A-9. Owner wishes to remove existing garage apartment from detached garage and make this garage conforming, demolish 10x16 detached garage # 2, and construct new detached single family dwelling in rear yard. R-2 Zone.
This application is denied for the following reasons: 107-9 - R-2 zone- One Family Residential Zone. Two detached single family homes on one lot is not a permitted use. 107-27 - Sideyard set back for accessory building - 5 Feet required, 2.84 Feet existing. Any any variance the Board may deem necessary. Use Variance. Not a flood zone.
James Edward Julian - 14 Main Street, James Russell Julian 14½ Main St. were sworn in by Mr. Byrnes.
James R. Julian testified he lives in the front house and his son James R. lives in the garage apartment. He has been living back there for 7 years referring to photo A-7A, which is a very small building. The building is in such bad shape, they would like to take the building down and replace with another building which would meet code requirements. They were before the board in 1989 to expand the property but let it lapse as they didn't have the money. The application will be amended to leave the frame garage with a 2.13 and a 1.59 side yard set back on that building. The living area now is 450 sq. ft. the new will be 936 sq. Ft..
Mr. Burke stated this is a use variance and the board cannot grant an application only on the merits that it is going to be good for you and the consideration of the town. Mr. Julian testified it will be an improvement to the neighborhood, and will not block the flow of air or light. The building will be safer and more in conformity.

A motion to close the public hearing was made by P. Walsh, seconded by T.Coan, followed by the following vote: "YES"- T.Coan, J.Miller, N. Hood, P.Walsh, R.Brittle, J.Burke
Motion for a site inspection on Saturday January 18, 1997 at 9:00 a.m was made by P.Walsh, seconded by T.Coan, followed by the following vote: "YES" - T.Coan, J. Miller, N.Hood, P.Walsh, R.Brittle, J.Burke.
The applicants waived their time limits.

APPLICATION - 1-97 Frank & Patricia Federici - 407 Beachfront.
Mr. Byrnes marked the boards file A-1 to A-11. Owner wishes to construct 16' x 16' deck in front of beachfront house on a lot with two houses. R-4 Zone.
This application is denied for the following reasons:
107-11 - Not a permitted use - two houses on one lot. 107-27 - Front setback from First Ave. - 10 ft. required, 0.9 ft. existing. Side sebacks - Beachfront - 5 ft. required, 3.4 ft. (south) existing, 2.5 ft.+/- (north) existing. First Ave. 5 ft. required, 1.7 ft. (north existing. Aggregate front and rear setbacks, 30 ft. required, 17.39 ft. proposed. 107-36.A Off Street Parking - 4 spaces required, 2 spaces provided. V-6 Flood Zone - construction must comply. And any other variances the Baord may deem necessary. Use Variance.

Patricia Federici - 407 Beachfront, Frank Federici, 407 Beachfront and James Wishbow, 199 Paint Island Spring Rd., Freehold, N. J., were sworn in as witnesses. Mr. Wishbow is the contractor from Wishbow Contracting.
The applicant proposed to build a deck on the front of the beach front house. Mr. Wishbow testified the house is 20 ft. wide and the deck is 16 ft. wide, and the steps will not extend past the line of the house. The elevation of the deck is under 30 inches, and the railing is much lower than code requires.
The deck will be dropped 4 inches below the door. The top of the deck from the concrete will be about 22 inches. Taking into consideration the steps, the deck will be 18ft. 8in. wide and the front will be 17 inches. The application will be amended to cover the new dimensions.
Laurie Brandon, 412 First Avenue, came forward was sworn in by Mr. Byrnes. She testified she approved what they are doing and hopes the Board grants them the variance.
Tom Tallon, 413 Beachfront was sworn in by Mr. Byrnes. He testified he would like to see this granted, as these people always do right when they build. He stated more and more people are building higher, so they can see what is going on down by the water. He stated there is no such thing as a standard line on the Manasquan beach.

A motion to close the public hearing was made by P. Walsh, seconded by N.Hood, followed by the following vote: "YES"- T.Coan, J.Miller, N. Hood, P.Walsh, R.Brittle, J. Burke

A motion for a favorable resolution was made by P. Walsh, seconded by N.Hood followed by the following vote: "YES" - T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke

APPLICATION - 2-97 - Thomas Bateman, 169 Lake Avenue.
The Boards file was marked at A-1 to A 10. Owner wishes to demolish existing one-story dwelling and construct new two-story dwelling. R-1 Zone. This application is denied for the following reasons: 107-27 - Lot Area - 7000 sq. ft. minimum, 3334.5 sq. ft. existing. Rear Yard Setback - 35 ft. required, 20 ft. proposed., Front Yard Setback - 25 ft. required, 21 ft. proposed. And any other variances the Board may deem necessary. A-5 Flood Zone - New structure must comply. Hardship variance.

Kenneth Fortier placed his appearance on record as Attorney representing the applicant. Thomas Robert Bateman,1610 Marigold Ave., was sworn in by Mr. Byrnes.
Mr. Fortier testifed his client is a contract purchaser of the property whichhas a single family one story bungalow on it, he wishes to demolish and build a new house. Mr. Bateman testified A-12 is the existing property, which was one of the original fishing shacks from Pompano Beach. It sits right on the ground, A-11 is the rear of the house with a shower enclosure. He testified he would like to remove it and build a 2 story single family home which he will live in. He testified he is trying to stay within the footprint of 20x32. He has shown the plans to everyone in the neighborhood and they are all very pleased. The driveway is on the left of the house and room for 2 cars to park. The roof on the front is just over the front steps.

A motion to close the public hearing was made by T.Coan, seconded by J. Miller and followed by the following vote: "YES" T.Coan, J.Miller, N. Hood, P. Walsh, R.Brittle, J. Burke.

A motion for a favorable resolution was made by P. Walsh, seconded by N. Hood, followed by the following vote: "YES" T.Coan, J. Miller, N. Hood, P.Walsh, R.Brittle, J.Burke.

RESOLUTION - 31-96 - Robert Scerrato - 373 Beachfront.
The resolution was read by Mr. Byrnes. A motion for a favorable resolution was made by N.Hood, seconded by P.Walsh, followed by the following vote: "YES" J.Miller, N.Hood, P. Walsh, R.Brittle, J.Burke.

RESOLUTION - 12-96 - John & Benedetta O'Grady -265 Beachfront
The resolution was read by Mr. Byrnes. A motion to approve this resolution was made by J.Miller, seconded by P. Walsh, followed by the following vote: "YES" J.Miller, N. Hood, P.Walsh and J.Burke.

The corrected plans for O'Grady from Mr. Sebring dated 12/31/96 that have made the revisions discussed at the prior meeting. The original revised plans were marked A-8B so these will be marked as A-8C. The fax received from Mr. Fitzpatrick today was marked as objectors exhibit 8 for ID only, which concludes this application.

APPLICATION- 6-97 - John & Benedetta O'Grady, 303 Beachfront
Request for a special meeting.

Mr. Thomas who represents the O'Grady's was present. He stated American Timber has put these people on short leash and told them if they get this all done by the middle of April they have a deal, if not there is no deal. The 2 zoning variances being sought are a single family structure that is being proposed for the house, building and lot coverage variance, a side yard set back variance.

The Board graanted a meeting for the O'Grady's for March 19, 1997.

APPLICATION - 8-97 - Gertrude Rossetti - 50 First Avenue
Reguest for a special meeting.

The Board granted a special meeting February 19, 1997 at 6:30 P.M. for the applicant. Motion was made by J.Miller to start the Febuary meeting at 6:30 p.m. seconded by R.Brittle, followed by the following vote: "YES"- T.Coan, J.Miller, N.Hood, P.Walsh, R.Brittle, J.Burke.

There being no more business, a motion to adjourn was made by J.Miller, seconded by R.Brittle followed by the following vote: "YES" - T.Coan, J.Miller, N. Hood, P. Walsh, R.Brittle, J.Burke

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

FEBRUARY 19, 1997 MEETING AGENDA

On Wednesday February 19, 1997 the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 3-97 - James Hope - 579 Brielle Road

APPLICATION - 4-97 - Richard & Patricia Dunne - 458 Long Ave.

RESOLUTION - 1-97 - Frank & Patricia Federici- 407 Beachfront

RESOLUTION - 2-97 - Thomas Bateman - 169 Lake Avenue

OLD / NEW BUSINESS

APPLICATION - 23-96 - Harcourt & Karen Ward -11-15 Wyckoff Ave.
Request for special meeting

(Work session will be conducted immediately after the regular meeting).

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

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If No Answer
908-223-0544
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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
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ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

FEBRUARY 19, 1997 - 6:30 P.M. -SPECIAL MEETING AGENDA

On Wednesday February 19, 1997 the Zoning Board of Adjustment of the Borough of Manasquan, will hold a special meeting at 6:30 p.m. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 5-97 - Gertrude Rossetti - 50 First Avenue

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

FEBRUARY 20, 1997 - 7:30 P.M. - SPECIAL MEETING AGENDA

On Thursday February 20, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold a special meeting at 7:30 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 32-96 - Continuation - Michael & Carmela Parziale
305 Beachfront

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES FEBRUARY 19, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on February 19,1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke called the meeting to order at 7:35 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: T.J.Coan, J. Miller, P. Walsh, R.Brittle, E.Lyons, J.Burke. ABSENT - N.Hood, J.VanStolk, M.Kazenmayer.

A motion to approve the minutes of January 15, 1997 was made by P.Walsh, seconded by R.Brittle followed by the following vote:"YES" T.JCoan, J.Miller, P. Walsh, R.Brittle, E.Lyons, J.Burke.

APPLICATION - 3-97 - James Hope - 579 Brielle Road.
Mr. Byrnes marked the Board's file as A-1 to A-9.
Owaner wishes to install heat in a dwelling with no heat. The lot has two houses, neither has any heat. R-5 Zone.
This application was denied for the following reasons:
107-12 - Two houses on one lot is a non-conforming use and the installation of heat is an expansion of this non-conforming use by expanding the time it is being used. A-5 Flood Zone. If approved the unit must be avove the base flood elevation.
Use Variance. Block 182.01 Lot 1.579.

James A. Hope, 560 Salmon Avenue, was sworn in by Mr. Byrnes. Mr. Hope testified, he bought some properties in the spring of last year and he was remodeling them. He testified he received the permits from Sandy Ratz, they put the heat and central air in,but never had the permit put through, and when Mr. Allen went in for the plumbing permit, he was told by Mr. Ratz you can't do that as it is nonconforming use.
Pictures submitted were marked A-10-11-12. Mr. Hope testified A-10 is when he tore the front off, A-11 before he started on it and A-12 is after the completion. Mr. Hope testified all the other houses have heat in the front and back. He testified American Timber owns the land. The houses and land around Mr. Hope are all privately owned.

Mr. Byrnes stated the denial given by Mr. Ratz is insufficient.In the R-5 Zone the minimum lot requirements are 2700 sq. ft. and according to this survey it is 2452 sq. ft. existing. 40 Ft. frontage is required, this shows 25 ft., a 10 ft. front yard setback is required, this shows 4.. The sideyard setback is 5 ft. this appears to have an overhang on both sides. Rear yard set back of 20 ft., counting the rear house it looks less than 1 ft.. The denial permit is silent as to building coverage

or lot coverage. If these are free existing things and you are here asking for a use variance, all of these issues have to be addressed. The only one I don't have a question on is the heighth.

Mr. Burke said this whole application has to be revised. We can sit here tonight and go through every thing list by list and have it amended, or we can have Mr. Ratz re-do it and that would require coming back next month.

Mr. Byrnes said it has to go back to Mr. Ratz for a new denial. You do not have to renotice your neighbors, there is no additional work for you, but you have to come back in March. Mr. Hope testified the heating unit is in the attic and the air condition is on the back deck.

Mr. Walsh would like to see the certified flood elevation, because before she votes on it she would like to see it meets all the flood elevation.

Mr. Coan's concern is where the condensor is located. Mr. Burke stated what the board needs by the March meeting is copies of the sub-division map, showing your property and where the air conditioner is located. Mr. Hope waived the time limit.

A motion for a site inspection at 9:30 a.m., Saturday February 22, 1997 was made by T.J.Coan, seconded by E.Lyons, followed by the following: "YES"- T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke.

APPLICATION - 4-97 - Richard & Patricia Dunne - 458 Long Avenue.
The Boards file was marked as A-1 to A-9.
Owner wishes to construct a second floor addition to existing one-family dwelling. R-3 Zone.
This application was denied for the following reasons:
107-27 - Front Setback - 25 ft. required, 19.95 ft. existing.
Side Setback - 5 ft. required, 3.3 ft. existing & proposed.
A-5 Flood Zone - addition will comply. And any other variance(s) the Board may deem necessary. HARDSHIP VARIANCE.

Patricia A. Dunne,458 Long Avenue, Richard Dunne, 458 Long Ave, and John Gassner, Gassner Builders, Union Ave. builder for the applicant, were sworn in by Mr. Byrnes.

Mr. Richard Dunne is a councilman in the Borough for the last 3 years, and Mrs. Dunne is a member of the Planning Board and the Manasquan Environmental Commission.

Mr. Burke told Mr. Gassner, if the addition is not expanding any of the non-conformities on the house and is less than 25% of the first floor square footage, you do not need a variance

then Sandy Ratz can give you a permit for it.
Photo's entered into evidence were marked A-10. Mr. Dunne testified they have been living in this house for the past 14 years and have had property in Manasquan for over 30 years, we still have Pat's parents house on Rogers Ave. for over 50 years. Our house is redwood tongue and groove and he hopes to carrry it out in this new addition. The reason they are putting on the addition is because of the grand children which will be 6. There are 2 bedrooms upstairs and 2 down, the 1 upstairs bedroom is small and is used as an office by Mr. Dunne. They are looking to expand the house to add 2 bedrooms and a bath upstairs, which will fill out the first floor roof in the front of the house.
This expansion will be relatively small, will not block any views or light from the neighbors.
Mr. Dunne testified this house having a flat roof and no basement it has no storage, so by putting on a slope roof, it will give us some storage space and from the design point of view it gives a nicer look. and flat roofs are a bad headache.

Mr. Gassner testified the existing house has a kitchen, 2 bedrooms, a full bath, living room and a dining family room addition on the back of the house. The house is hard vertical green red wood, which is very expensive and they are staying right in style with the house. They are going to replace on the west side some of which has buckled off approximately 200 ft. of siding just because of the condition. Mr. Gassner stated they are taking 37 inches of the existing bedroom on the south side and creating a hall way down the center on the addition and taking away the closet from the master bedroom and constructing 2 closets in the existing master bedroom and then there will be a center hall walk in closet, with a window to add to the appearance of the front of the house. There will be a new electrical service to the second floor, there will be an new heat unit in the attic area. They are installing fire egress windows to the front bedroom or office to qualify to code. All new windows will be fire egress windows. There will be AC battery operated smoke detectors throughout the house.
There will be a sky lite in the hall way.

Mr. Dunne said the house was built in 1959. He testified it will be an asset to the neighborhood, and will not block air or light to the neighbors.

A motion to close the public hearing on this application was made by P.Walsh, seconded by R.Brittle, followed by the following vote: "YES" - T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.

The being no problems from the Board, a motion to approve a favorable resolution by R.Brittle, seconded by T.J.Coan, followed

by the following vote: "YES"- T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.

A motion to go into executive session at 9:10 p.m.by E.Lyons,, seconded by P. Walsh, followed by the following: "YES" T.J.Coan, J.Miller, P. Walsh, R.Brittle, E.Lyons, J.Burke.

The Board returned from executive session at 9:55 p.m. with the following roll call: T.J.Coan, J.Miller, P.Walsh, R.Brittle,. E.Lyons and J.Burke.

OLD / NEW BUSINESS

Request for a special meeting by Mr. & Mrs. Ward - 11-15 Wyckoff Avenue to reopen application 23-96.
A motion was made for a special meeting to reopen application 23-96 on Wednesday March 12, 1997 at 7:00 P.M., was made by E.Lyons, seconded by J.Miller followed by the following: "YES" T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke.

RESOLUTION - 1-97 - Frank & Patricia Federicci -407 Beachfront.
The resolution was read by Mr. Byrnes.
A motion to approve the resolution was made by R.Brittle, seconded by P.Walsh, followed by the following vote: "YES" - T.J.Coan, J.Miller, P.Walsh. R.Brittle, J.Burke.

RESOLUTION 2-97 - Thomas Bateman - 169 Lake Avenue.
Mr. Byrnes read the resolution.
A motion to approve the resolution wa made by J.Miller, seconded by P.Walsh, followed by the following vote: "YES" - T.J.Coan J.Miller, P. Walsh, R.Brittle, J.Burke.

There being no further business, a motion to adjourn was made by P.Walsh, seconded by J.Miller and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN, N.J.

MANASQUAN ZONING BOARD OF ADJUSTMENT

MARCH 19, 1997 MEETING AGENDA

On Wednesday March 19, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 3-97 - Cont. James Hope - 579 Brielle Road

APPLICATION - 5-97 - Cont. Gertrude Rossetti - 50 First Ave.

APPLICATION - 6-97 - John & Benedetta O'Grady -303 Beachfront

APPLICATION - 7-97 - Myrna Tietz - 397 First Avenue

RESOLUTION - 4-97 Richard & Patricia Dunne - 458 Long Avenue

RESOLUTION - 23-96 -Harcourt & Karen Ward - 11-15 Wyckoff Ave.

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meting).

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTENT
SPECIAL MEETING MINUTES - FEBRUARY 19, 1997
MANASQUAN BOROUGH HALL, 15 TAYLOR AVENUE, MANASQUAN, N. J.

The Manasquan Zoning Board of Adjustment held a special meeting on February 19, 1997 in Manasquan Borough Hall, 15 Taylor Avenue Manasquan, N. J..

Vice Chairman Robert Brittle called the meeting to order at 6:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: T.Coan, J.Miller, P. Walsh, R.Brittle, E.Lyons, J. Burke.

Chairman John Burke excused himself, as he resides within 200 ft. of the applicant.

APPLICATION - 5-97 - Gertrude Rossetti - 50 First Avenue
Mr. Byrnes marked the file as A-1 to A-17.
Block 165, Lot 19.01. Owner wishes to change roof at front of rear of a two-family dwelling match main roof and remove interior bearing wall. R-2 Zone. This application is Denied for the following reasons: 107-27 - Lot Area - 2100 Sq. ft. required, 1875 sq. ft. existing. Frontage - 30 feet required, 25 ft. existing. Front Setback - 10 ft. required, 1.0 ft. existing to steps, 7.2 ft. to structure existing/proposed. Side Setback - 5 ft. rquired,0.42 ft. north side existing/proposed,1.54 ft. south side existing/proposed. Rear Setback - 29 ft. required, 17 ft. to steps existing. Maximum Building Coverage - 35 % maximum allowed, 44.2 % existing. Maximum Lot Coverage - 50% allowed, 53% existing.

The following witnesses were sworn in by Mr. Byrnes. Gertrude Rossetti, 702 North Avenue, Westfield, N. J. , Dolores Twaddell, 69 Beachfront, Gordon Twaddell, 69 Beachfront, Manasquan, John Milligan, 2908 Garfield St. Wall, N. J.
For the record Mr. Byrnes knows the Twaddells and a few years ago he represented them in a real estate matter but there is no conflict.
He stated the Board has requested an amendment to your application, on the south side set back changing it from 2.98 ft. to 1.54 ft.. Mrs. Rossetti agreed it was alright to amend.

Mr. Twaddell testified they would like to extend the roof line over the front and back and fill out the porch areas to maximize the living space in the floor areas. They are not changing the foot print of the house. The house is 80 years old and Mrs. Rossetti would like to make it a winter home. The building will be resided. It is not heated at present, only temporarily.
There is a two car garage and an apartment behind it. Mrs. Roasetti has owned the house since 1942 and has never been

rented. Mr. Twaddell testified the whole basement floor is half garage and half apartment. They pay 2 water and sewer. They are 2 seperate dwellings, with 2 kitchens. The 2 areas will not be connected in any way.
Mr. Byrnes stated this is noting that Mrs.Rossetti has done but this application has come before us as a Hardship Variance and it should be a Use Variance, because of the existence of 2 seperate dwelling areas on the property, and even though one has never been rented out and the other has been used by family and only in warm weather, does not negate the fact that there are 2 seperate living areas. Under our ordinances this is classified as a 2 family. In the R 5 zone 2 family structures are not allowed, so therefore, this is a violation of the use.

Mr. Byrnes stated the difference between a Hardship variance and a use variance, voting wise - is that there are 5 members here tonight eligable to vote, a hardship variance you would need only 3 of the 5, on a use variance you must have all 5. If one person votes no then the application is defeated.

Mr. Byrnes stated this can be remedied by Mr. Ratz issuing a new denial and it being published in the paper. He also suggested the Board have a site inspection.

Mr. Coan wants to make sure the applicant is clear on the higher criteria involved in the use variance, in terms of making the proofs for the use variance. It is a different criteria than what they came in for, also he feels that they should be advised that if they do abandon the use they can just continue tonight and get this resolved tonight.
Mr. Twaddell said in order to do that they would have to abandon the kitchen? Mrs. Twaddell testified it is absolutly out of the question. Mrs. Rossetti was excused from being at next months meeting.

Mr. Miller made a motion for a site inspection for Saturday February 22, 1997 at 9:00 A.M. seconded by P. Walsh, followed by the following vote: "YES"- T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons.

Mr. Coan suggested that some one be there to let them in as he would like to see the ground floor apartment, as it is a use variance. Mr. Milligan said he would be there to let them in. Mr. Twaddell testified they would waiver the time limit.

Mr. Coan doesn't think the applicants are clear on our own Article 1 -Purpose of Zoning, item # 12, which instructs the Board to provide for the gradual elimination of non-permorming uses of land building construction, so it is the obligation of the Board to provide for the gradual elimination through applications much like your own, so it is right here in our own zoning book,it's not anything from the state or any

thing else. That area was zoned for single family use.

Mr. Byrnes asked Mr. Twaddell to get together with Mr. Ratz so he's aware of this problem. He is also advising Mr. Brittle to get to see Mr. Ratz to advise him of the problem and request that he issue an amended letter of denial including the use variances we are talking about.

Mr. Byrnes also asked Mr. Twaddell to publish a new legal notice in the Coast Star and provide our Board secretary with a new affadavit of publication because there is a different wording for a use variance. He believes that will cure the technical defects other than do you wish to amend your application to include the use variance for 2 dwellings on the propety.

MR. Coan stated the requirements for a use variance are much more stringent than the hardship variance that you originaly applied for, there are a number of proofs that have to be made, and he hopes that you realize that. Mr. Twaddell said he does not realize that.

Mr. Byrnes told Mr. Twaddell that he could contact his office sometime the next week or so and he will go over with you what the additional requirements are so that you can be prepared in March. I won't be giving you legal advise, I will just be giving you what those requirements are.

Records show the Chairman has returned and a motion to close the special meeting was made by J.Miller, seconded by P. Walsh and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

ADDENDUM TO AGENDA
MARCH 12, 1997 SPECIAL MEETING

RESOLUTION 32-96 - Carmela and Michael Parziale - 305 Beachfront

EXECUTIVE SESSION

M. Applegate
Marie Applegate, Secretary
Zoning Board of Adjustment

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JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

MARCH 12, 1997 - 7:00 P.M. - SPECIAL MEETING AGENDA

On Wednesday March 12, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold a special meeting at 7:00 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 23-96 - Harcourt & Karen Ward - 11-15 Wyckoff Avenue

Yours truly,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

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BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES - THURSDAY FEBRUARY 20, 1997
MANASQUAN BOROUGH HALL, 15 TAYLOR AVENUE, MANASQUAN, N. J.

The Manasquan Zoning Board of Adjustment held a special meeting on February 20, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J.

Chairman John Burke, called the meeting to order at 7:30 P.M. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: J. Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.
ABSENT : T.Coan, N.Hood, J.VanStolk and M. Kazenmayer.

Mr. Byrnes stated there are 5 Board members here tonight. Mr. Lyons did listen to the tapes and is eligable to vote.
Mr. Coan was excused from the meeting.

An additional exhibit was received, which is a set of plans from the applicants architect Mr. Amelchenko consisting of 3 pages, dated 6/6/97, marked as A-7B. These are the plans we will be dealing with tonight and nothing else.

APPLICATION - 32-96 - Michael & Carmela Parziale - 305 Beachfront.
Ms. Nancy Wright representing the applicant came forward.
Mr. Byrnes asked Ms. Wright, the new plans received, last time you were here we marked A-7A Mr. Amelchenko's plans dated 12/12/96 and your client testified " this is the house that we want to construct", now we have a new set of plans. What is the difference? Ms. Wright said the differnece is that there is more detail in connection with the plans, specifically at the last meeting at the very end there were areas that specific members indicated that they wanted to see addressed, dealing with elevations, the upper storage area and the lower area.

Mr. Albert P. Ratz, Borough Construction Official was sworn in as a witness by Mr. Byrnes.

Nancy G. Wright, Bathgate, Wegener & Wolf, put herself on record as the attorney for the applicant, Carmela and Michael Parziale.
Ms. Wright stated the last meeting was continued based on Mr. Ratz's letter of 1/15/97, which in essence indicated that before any building permit can be issued on this property, he wanted the Board to review the plans that might be subject to such a permit. The plans are not identical to the pre-existing structure, and that was the reaseon for coming back.

Mr. Amelchenko testified the plans before the Board represents the first floor and second floor and a lower level basement or garage area, which accommodates the parking of 2 vehicels.
The second floor area consists of 1,599.42 sq. ft. of living

area. The first floor as proposed represents a total square footage of 1,369.42 square feet of total living area. The combined square footage of both floors is 2,968.84 square feet of total living area. Before the fire the preexisting square footage of the structure was 3,200.58 square feet. Subtracting our square footage from the pre-existing indicating a lesser square footage of 231.74 sq. feet of total living area.

Mr. Parziale for the record confirmed that, that was the square footage of the pre-existing structure.

Mr. Burke stated, testimony that was given earlier gave a first floor of 1,636 sq. ft. a basement of 576 sq. ft. and a storage area of 924 sq. ft. for a total of 3,136 sq. ft.. Mr. Amelchenko stated Mr. Ratz gave them the 3,136 and Mr. Parziale will be addressing a smallpertinance that in his estimation was not calculated and he will be presenting that to the Board tonight for their findings.
Ms. Wright said the understanding is that the total square footage that your still stating is still less than the total square footage of Mr. Ratz, the 2,968.84 sq. feet. Mr. Amelchenko testified yes. He testified the variance to the front steps still exist, the set back from first Avenue, 10 ft. were required and there is still a 3.5 ft. existing set back remaining. Theaggregate of the front and rear setback 30 ft. required and the 15 ft. proposed is still remaining. The side set back to the north, 5 ft. were required, 4.67 ft. were proposed, Mr. Amelchenkc testified that, that set back to the north is going to be eliminated by these plans. The side set back to the south where 5 ft. were required and 4.66 ft. were proposed, that side set back will not be eliminated by these plans, as testified by Mr. Amelchenko. The side setback which deals with the garage apartment of 5 ft. required, 3.3 ft. existing is remaining. The height complys with the existing ordinance. The maximum building coverage, 35% permitted, Mr. Amelchenko testified they are now more in compliance by 7% by elimination of the side yard set back. The maximum lot coverage, there is a reduction in that by approximately 7%.
The plan also eliminates the variance for parking. He also testified, the plans comply with the building code and the flood elevation, which were factors in determining the reconfiguration of the structure.

Mr. Amelchenko testified that on the plans, section page A3, the attic storage,is accessed solely by pull down stairs, the center portion of the attic under the ridge area, is a total distance of 8 feet, its approximately a 45 degree angle and the width is 18½ ft.. The only dormer facility that is indicated on the northerly elevation, the head height there under that gable roof is approximately a shade less than 6 feet, and could not accommodate a living space.

Mr. Burke said he would like to hear from Mr. Pariale about the 70 square feet. Mr. Parziale testified he went out and measured to the inch, which will show all the jogs and it will come out closer to the 3200 sq. ft. than what this is saying.
Ms. Wright stated in terms of the area underneath, is that an area that is heated or in any way used for living area as it is proposed, Mr. Parziale and Mr. Amelchenko testified that it is not.

Mr. Byrnes defined living area in any structure is that used for residential purposes exclussive of basements, and or cellars, unimproved attics, open porches, exterior balconys, breezeways, open spaces, garages or other similar extensions.

John Burke was concerned with the question of whether the proposal should be considered a restoration or a rebuilding project. You say you are restoring the original structure, but right now there exists 42 % of the existing building, 58% of the building was destroyed as determined by Boro Construction Official, Mr. Ratz. If the structure was not in a flood zone, Mr. Parziale could simply get a building permit because you would be building on the 48% that is sitting there. This building is not going to be built on the 48% that remains. The 48% because of the Federal Law of putting this house on pilings, your going to have to remove that 48%. Now there is 100% of the building gone, and your building a complete new building. Now this is the quantry that we are in, which superseeds what - in other words, where does the State Law come in and where does the Borough Ordinance on restoring the building leave off? This is what Mr. Ratz has asked the Board to determine. Ma. Wright clarified the intent of the state statue and said the plans follow that intent. "The intent of the application and the statute deals with partial destruction and the rights set forth in that. Any non-conforming use or structure existing at the time of passage, of an ordinance be continued on a lot or building so occupied. Such structure may be restored or repaired in the event of partial destruction." She quoted from NJFA 4055B-68 Partial destruction.
Ms. Wright said the legislative policy was drafted to protect a use or structure which pre-existed from a change in the zoning law or a new restriction. The property owners rights are not abandoned or dissolved when you have a partial destruction. We need to look at the intent and purpose of the statute, to prevent these people from rebuilding, that is clearly contrary to the purpose of the Municipal Land Use Law and totally contrary to the purpose and intent of the statute. The alternative is - to try and go out there and rebuild, utilizing that structure and doing it in a way that in essence creates a building that's not as safe and not as aesthetically pleasing or reduce some variances piople are complaining about. What's the rationale? In essence you're punishing these people, when the fact is

they're trying to do something better and safer for themselves and the community whish is safer, aesthetically more pleasing and reduces variances. They have their rights. They're telling you they're going to build in accordance with the codes. I don't know what more you could ask. These people are not here by choice. These people are here out of absolute necessity, out of an emergency and out of a need. I respectfully submit to this board this is the absolute, best, most reasonable, fairest and only interpretation of laws applicable in this case to this property, are to let them rebuild by plan."

Mr. Byrnes said he does not disagree with any of the legal arguments made, in fact I agree with a great deal of them, but the problem I forsee is with the Federal Flood Zone requirements and they are quite clear in what they say, that if a structure in a flood zone suffers substantial damage to the extent that the cost to repair or restore exceeds 50% of the market value of the structure at the time the damage was incurred, then when the structure is restored or rebuilt, it must comply with all flood zone regulations.

Mr. Byrnes quoted under 44 code of Federal Regulations 59.1 - any reconstruction, rehabilitation, addition or other improvement of a structure at a cost of which equals or exceeds 50% of the market value of the structure, before the start of the construction improvement, this term includes structures that have incurred substantial damage regardless of the value of the actual cost of repair work performed.
Mr. Byrnes stated it is considered a substantial improvement and termed a reconstruction even if the structure must be completely destroyed, since the old foundation has a residual value, it really does not matter what is referred to a new construction or substantial improvement, because in either case the structure will have to be elevated to or above the elevation of the base flood and other applicable program requirements.

Mrs. Walsh feel it is a construction of a new structure. Mr. Lyons feels it's restoring to the existing conditions. Mr. Brittle feels that the Federal Law supercedes, you have to destroy to rebuild. Mr. Burke agrees with Mr. Lyons. The restoration is to the use not to the physical property of the building.

MR. Ratz put a value to what was remaining at $ 37,000., based on a square foot valuation and the materials that were used in the structure there now. Function of the heating and plumbing does not go into the calculation, not in the zoning but it does in the building.

Mrs. Walsh stated she feels they have given Mr. Ratz's determination and given our extensive discussion, she would agree on the continuation of the use, if there were no expansion.

Mr. Miller, Mr. Lyons, Mr. Britton all concur.
A motion to determine what Mr. Ratz has asked us to determine, that being as to whether the applicant may replace the non-conforming use of the structure in a new structure, which is higher than the physical structure which existed prior to the fire of October 5, 1996, was made by Mr. Miller, seconded by Mr. Lyons, followed by the following vote: "YES"- J.Miller, P. Walsh, R.Brittle, E.Lyons and J.Burke.

Mr. Burke stated Mr. Ratz's comment according to the zoning regulation that you can replace the use. The use was 500 to 600 ft. square apartment and a 1636 square foot apartment making a total of approximately 2212 sq. ft. of living area in 2 apartments. Mr. Burke asked Mr. Ratz if he is looking for 2 apartments that equal pre-existing total or are you looking for 2 apartments that are approximately the same size individually? Mr. Ratz stated that is what he is looking for from the Board. He stated this is the first situation he has had of this kind.

MR. Ratz in December measured the apartment in the basement and he measured the main body of the apartment was about 576 sq. feet, there was a little bump out which was then being used as a bed room that's about 120 sq. ft. the remainder of the basement about 210 sq. ft. was used as a stairway, workshop area and mechanical plant, and there was another section of 14.6 x 21 ft., which was accessed to a stairway to the second floor, which was a recreation room and was part of the second floor, which was 21x15 sq. ft.. The total living area in the structure at that time was approximately 2857 sq. ft..
Mr. Byrnes marked into evidence plans as A-22

A motion for a 5 minute recess at 9:17 p.m.,was made by J.Miller seconded by P.Walsh, followed by the following vote: "YES"- J.Miller, P. Walsh, R. Brittle, E.Lyons, J.Burke.

The Board returned from recess at 9:27 p.m. with the following roll call: "YES"- J.Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke.

Mrs. Walsh feels they are increasing the use of this structure by increasing a bedroom and possibly 2 bedrooms, which increases the density in the area. She is also concerned with the front yard set-back.

Mr. Parziale presented C.O's on the rentals, showing there were 2 bedrooms in the lower and 4 bedrooms in the upper.

Mr. Amelchenko testified for the record that the storage area listed on the drawing on the second floor, shows 2 windows, and he will eliminate those 2 windows.

Now there are 6 bedrooms, a proposed structure within a 100

square feet of the existing structure and the 100 sq. ft. is almost the exact size of the storage area on the second floor. The new structure will be very similar but not identcal.

Mrs. Walsh is still concerned about the 2½ ft. setback in the front. One of our responsibilities as a Board of Adjustment is to provide for the gradual elimination of non-conforming uses in structures, and she would like to ask the applicant if they would consider shortening the length of the building by 5 feet which would move it back further from the front yard setback- it would eliminate that 100 variance at 2½ feet your sitting almost on the board walk.

A motion stating that the proposed structure is substantially similar to the existing structure that is there in size and it does not increase the occupancy over the existing structure, was made by E. Lyons, seconded by R.Brittle followed by the following vote: "YES"- J.Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke.

Mr. William Reynolds , 315 First Avenue came forward and had been sworn in at a previous meeting. He had a question on the 11 ft. flood elevation. It was explained by Mr. Ratz.

A motion to close the public hearing was made by P.Walsh, seconded by J.Miller, followed by the following vote: "YES"- J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.

Mr. Burke stated according to schedule B the dormer cannot exist. The second one is in gray area as it is really almost an extension of the facia above the entrance way, it is not truly a dormer, but it is a gable.
Mr. Burke said if the applicant agrees to remove the dormer he would be willing to agree with the gable.
Mr. Miller asked about the extension on A7A. Mr. Amelchenko said it is purely for aesthetic purposes only.

Mr. Byrnes marked into record a photograph as A-37.
There was a discussion on the gable roof, some were for it and some were against it.

Mr. Byrnes asked Mr. Ratz if Mr. Parziale didn't want the gable now and built it across as some members are discussing,and he built his house, the north side doesn't violate any side yard set backs, under our zoning ordinances, would the Parziales be able to come in and ask for a building permit to change their roof, due to the fact that it's less than 25% and no set backs etc.. Mr. Ratz said if they wanted to change to this dormer they would have to come back tothe Board of Adjustment.

MR. Burke stated the applicant is asking to build A-7B. To build A-7B they need the board to approve variances for 107-7

25A, 107-27, 107-30, 107-36, so right now we have a use variance, which requires 5 affirmative votes. We are sitting with one problem right now and that is the gable.

A motion for a 5 minute recess at 10:47 p.m. was made by J.Miller seconded by P.Walsh, followed by the following vote: "YES" - J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke

Board returned from recess at 10:55 p.m. with the following roll call:J.Miller, P. Walsh, R.Brittle, E.Lyons, J.Burke.

Mr. Amelchenko testified, they would lower the roof line below the eve on that northerly projection and it will basically be a slope piece of trim that would be below the roof line on the north side, thereby eliminating the projection above the roof line, and the dormer on the south side will be eliminated all together.

Mr. Byrnes marked exhibits A-23,A24, A25, A26., A27,A28,A29,A30, A31, A32,A33, A34,A35,A36, and read into record.

A motion to approve this application was made by J.Miller, seconded by E.Lyons, followed by the following vote: "YES"- J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.

A motion was made to memorialize just the requirement of the piling part of this resolution followed by the following vote: "YES" - J.Miller, P.Walsh, R.Brittle, E.Lyons and J.Burke.

The resolution will be read at the March 12, 1997 meeting.

A motion to adjourn the meeting at 11:15 p.m. was made and unanimously approved.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES - WEDNESDAY MARCH 12, 1997

The Manasquan Zoning Board of Adjustment held a special meeting on March 12, 1997 in Manasquan Borough Hall, 15 Taylor Avenue Manasquan, N. J.

Chairman John Burke, called the meeting to order at 7:00 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in atttendance to join in the Salute to the Flag.

ROLL CALL: James Miller, Noel Hood, Patricia Walsh, Robert Brittle, Edward Lyons, John Burke. ABSENT: Thomas J.Coan, Joan VanStolk, Margaret Kazenmayer.

APPLICATION - 23-96 - Re-open case - Harcourt & Karen Ward - 11-15 Wyckoff Avenue

Mr. Byrnes stated this matter was recently presented to the board by way of application 23-96, the hearing started in October of 1996, the second hearing was held in November 20, 1996, at which time the applicants with-drew their application without prejudice, based upon a legal opinion by myself. Subsequently after they had received permits for partial demolition of a structure that existed on one of the lots. A concerned citizen made a verbal complaint to one of our councilmen who in turn reported the matater to the borough attorney. The borough attorney then wrote a letter stating that he respectfully disagreed with Mr. Byrnes, that in his opinion Mr. & Mrs. Ward did have to come back for a minor sub-division and use variances. Mr. Byrnes stated he has done a great deal of research in regard to that and I also conferred with Mr. Thomas in regard to that and he can find no legal authority what so ever.

Mr. Thomas representing the applicants came forward. He stated as Mr. Byrnes indicated he read Mr. Fitzsimmons letter and he disagrees with the procedure, but the option available to the Ward's are two-fold. One is to abandon the whole matter, which their not inclined to do, the other is to appeal the proceedure followed by the borough by having the town attorney second guess Mr. Byrnes. Making the most sense is reopening the case, even though the procedure that was followed by the Board of Adjustment was the correct procedure and reached the correct result.

Mr. Thomas stated he is here with Mr. Ward to reopen the case that was first heard before the Board back on October 16, 1996. He does not intend to offer any new testimony. The testimony was already completed at the October 16, 1996 hearing and it is in the record. As for the exhibits A-1 through A-11, there are not new exhibits the Ward's want to present as the application was complete as of October 16, 1996.

A motion by Mr. Thomas to re-open the hearing and in essence

to reinstate the application to the form which existed when it was with-drawn without prejudice back on November 20, 1996. Mr. Byrnes feels that as a matter of law, the applicant is entitled to this and he would ask the board to consider a favorable vote to allow them to reopen and proceed.

Mrs. Walsh made a motion to allow the applicant to re-open the case and proceed, seconded by E. Lyons, followed by the following vote: "YES"- J.Miller, N.Hood, P. Walsh, R.Brittle, E.Lyons, J.Burke.

Mr. Byrnes marked for exhibit the new list of property owners and certified mail receipts that were submitted as A-12. A-13 is a copy of the public notice for tonights special meeting, A-14 is a copy of the legal notice as it appeared in the Asbury Park Press February 27, 1997. Mr. Byrnes asked Mr. Thomas and the applicant,about the sub-division map dated 6/10/96 which is in the Boroughs file but was never marked by him. Mr. Thomas said it was marked A-7. Letter from Valerie Bills,Borough Tax Collector was marked as B-1

Mr. Hood stated since this was in October, he would like to see a survey and plans, and he recalls the town planner had some recommendations. Mr. Byrnes said the planner did prepare a letter when this matter was before the Planning Board with his recommendations if the matter were handled by the Planning Board.

Mr. Thomas said there was a letter from MR. Rooney, T & M Associates which was discussed. Mr. Rooney made 4 recommendations. One of the recommendations relayed to the shade tree in the front, which the Ward's are keeping.

Mr. Thomas in summarizing from his notes stated that the Ward's proposed to sub-divide property which contains one two-family dwelling known as 11-15 Wyckoff Ave.. He and his family now live there and would like to get out of, but it will continue in existance. The property which is known as lot 11.01 which is the southerly property is actually 100 ft. in depth 50 ft. in width, as they propose to sub-divide it. The lot that is to be created from the sub-division besides that lot is a lot 170 ft. in depth and 150 ft. in width. The plans marked A-11 depicts a single family home that they intend to construct on the property, also as on A-7 is indication of the garage which is going to be removed, to bring the garage totally in the lines of lot 11.01. There will be room to park 2 cars in the garage and 2 cars outside of the garage, so there is adequate parking for the 2 family use at the structure known as 11-15 Wyckoff.
The house that will be constructed on 11.02 the northerly property there is a access easement that is proposed in order to provide access to the structure at 11-15 Wyckoff, and tha

easement will be recorded as part of the sub-division deed which will be used to create this minor sub-division. There was testifmony put into the record and there were exhibits marked notably A-10A-B-C-D, which affect the property immediately north of this property where there is a 50 ft. wide lot which has by deed been dedicated to provide a means of thoroughfare from Main St. through the parking lot which is Ward Wight Realators and up to the 50 ft. lot and out on to Wyckoff Avenue. The structure they propose to construct is in compliance with the zoning requirement of the borough. The structure which will remain is not in compliance with the requirements of the Borough with the following respect. There is a minimum front yard set back of 25 ft. for the R-2 zone and there is a set back of 15.29 ft. provided. The minimum rear yard set back of 20 ft. required, there is 2.6 ft. provided off of the garage. Side yard set back to the southerly portion of the property, 2.5 ft. existing and 5 ft. required. In addition to that there is a maximum lot coverage that is permitted of 45% required there will be 58.5 % existing. The building coverage required is 30% and there is 45.5% existing. There is an 0 setback proposed on the garage and 5 Ft. required.

MR. Byrnes stated in October the application was amended to show a corrected front yard set back of 5.92ft. instead of 7.92 ft. due to stairs.

Mr. Thomas said the lot that their talking about extends back a distance of 170 ft. is not used at this time by the people who are occupying 11-15 now. Since the October 16, meeting Mr. & Mrs. Ward did obtain some permits.

Mr. Ward testified that after the determination was made that no sub-division was required, he obtained a demolition permit for the purpose of taking down the fence around lot 11.02 and also to remove a large tree around the garage and to remove that portion of the garage that was on 11.,02 and clean up the lot a little bit. We also filed a building permit and papers for a preliminary review, we had agreed at the final hearing that a building permit wouldn't be issued until such time as we completed all the demolition work. We had a very large tree in front of the garage removed and did start to take down the fence on the lot, and then it turned cold and we received notice our building permit was going to be denied and were asked to make re-application. The two trees in front of the lot will be kept. They had intended to replace the sidewalk in front where the new house will be. He testified they are willing to make any resolution of approval condition upon following those recommendations.

Mrs.Walsh asked Mr. Thomas to review for the board, why he feels this use variance should be grantaed.
Mr. Thomas stated the reason why this should be granted is one

of the purposes stated in the Land Use Act section 2 is the appropriate development in appropriate density according to the zoning of the town. The Land Use Act cannot get rid of the uses already in place. There's a non-conforming use here and according to testimony we are aware of how long that building sat there. This lot is just a vacant lot. The Ward's are proposing to construct a single family structure according to the borough ordinances. It is permitting through your land use the construction of an appropriate density within that zone.

Mr. Lyons asked if the taxes on lot 11.01 are paid and 11.02 are not paid, can the whole parcel be put up for sheriffs sale? He thought back in October we agreed this was 2 lots.

Mr. Burke said what we're looking for here is a minor sub-division request, if we see fit to grant it it's done.

Mr. Byrnes stated back in November all the members who are here tonight, sat in judgment on this application, they all read the legal opinion as to why I thought it was 2 lots, every one was asked - do you disagree with this opinion - no one said no - every one walked out of here that night feeling that the applicant should be allowed to build the house on the adjoining lot and that it was 2 lots. Even if someone now comes along now and says wait a minute it is one lot and you have to sub-divide it, there is no additional evidence that has been presented before this board, that would change any of the testimony that had been given to the Board by the applicant, where the board said you should be allowed to build your house. Any one on the board who were to change their vote tonight without hearing any new evidence in oposition or any reasons to deny would undoubtedly be creating a built appeal for the applicant.
He totaly disagrees with the fact that the Board has to be here. This individual created a right of appeal, it doesn't exist, he created an appellate level that does not exist in a statute ordinance, case law, ruling or any thing else anywhere. But Mr. Byrnes would like to see the board sit here tonight dot the eyes cross the t's, vote and close this matter once and for all, then be involved in extremely costly litigation in superior court in Monmouth County, with the Bd. of Adjustment being sued by the Borough of Mansquan.

Carol Broderick, Parker Avenue wanted to know how far the Board has gone back to find out if it was 2 lots. Mr. Byrns said he went back to 1905 when Mr. Wyckoff dedicated the street to the Borough., it was 2 lots then.

A motion to close the public hearing on this application was made by P. Walsh, seconded by E.Lyons, followed by the following vote: "YES" - J.Miller, N. Hood, P.Walsh, R.Brittle, E.Lyons,

J.Burke.

5 affirmative votes need to be casted as it is a use variance.

Mr. Lyons moved for a favorable resolution to grant a minor sub-division and use variance seconded by J. Miller, followed by the following vote: J. Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke. NO - N. Hood.

For the record, tapes were changed.

RESOLUTION - 32-96 - Carmela & Michael Parziale -305 Beachfront
The board was given revised plans showing no dormers on the south elevation and showing the north elevation without a gable roof, and the windows in the storage on the south elevation have been removed. The new plans conform to what was required. For the record exhibit was marked as A-7C plans that were just discussed from Architect Amelchenko, revised dated of 2/28/97.

The resolution was read by Mr. Byrnes.
Correction on page 6 item 2 should be (F)(B)

A motion for a favorable resolution was made by P. Walsh, seconded by E.Lyons, followed by the following vote: "YES"- J.Miller, P. Walsh, R.Brittle, E.Lyons and J.Burke.

A request by a member of the Board to go into executive session was agreed upon at 8:25 P.M..

A motion to go into executive session was made by P.Walsh, seconded by R.Brittle, followed by the following vote: "YES"
J. Miller, NM. Hood, P. Walsh, R.Brittle, E.Lyons, J.Burke.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - MARCH 19 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on March 19, 1997 in Manasquan Borough Hall, 15 Taylor Avenue. Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 p.m.. He stated this is an open public meeting held in accordance with the Open public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: T.J.Coan, J.Miller, N. Hood, J.VanStolk, P.Walsh, R.Brittle, E.Lyons and J.Burke. ABSENT - M.Kazenmayer

Motion to approve the minutes of the special meeting on February 19,1997 was made by E.Lyons, seconded by P.Walsh followed by the following vote: "YES" -T.J.Coan, J.Miller, P.Walsh R.Brittle, E.Lyons, J.Burke. ABSTAIN - N.Hood J.VanStolk.

Motion to approve the minutes of the regular meeting on February 19, 1997 wa made by P. Walsh, seconded by E.Lyons, followed by the following vote: "YES" T.J.Coan, J.Miller, P.Walsh, R.Brittle, E.Lyons, J.Burke. ABSTAIN - N.Hood, J.VanStolk.

Motion to approve the minutes of the special meeting on February 20, 1997 was made by E.Lyons, seconded by P.Walsh, followed by the following vote: "YES" - J.Miller, N. Hood, P. Walsh, R.Brittle, E. Lyons, J.Burke. ABSTAIN - T.J.Coan, J.VanStolk.

APPLICATION - 3-97 - Cont. James Hope - 579 Brielle Rd.
Mr. Byrnes stated there was to be a new denial by Mr. Ratz, for minimum lot area, front set-back, side yard set-back on both sides, rear setback, maximum building coverage, parking.
Mr. Hope did not have the new denial from Mr. Ratz. A certificate of elevation was marked as exhibit A-13 and also exhibit A-14 a one page map Preliminary Subdivision Map, Lands of American Timber Co. dated 3/5/90.
Mr. Byrnes also placed in the Boroughs file a certification from Board member Noel Hood advising that he has listened to the tape recording of the 2/19/97 meeting, therefore he is eligible to vote this evening, also a certification from board member Mrs. VanStolk who also listened to the tape of February meeting and is also eligible to vote.
Being there was no new denial the case could not be heard and was postponed until the April 17, 1997 meeting. Mr. Hope waived the time requirement.
A motion to continue this application to April 17, 1997 was made by P.Walsh, seconded by J.Miller, followed by the following vote: "YES" - T.J.Coan, J.Miller, N. Hood, J.VanStolk, P. Walsh, R.Brittle, E.Lyons, J.Burke.

APPLICATION - 5-97 - Cont. Gertrude Rossetti - 50 First Avenue
For the record, Mr. Burke lives within 200 Ft. of this

application so he cannot participate, and will excuse himself. He is turning the meeting over to Robert Brittle, Vice Chairman.

Mr. Byrnes stated there is an amended denial of permit from Construction Official Ratz, dated 2/20/97, marked as exhibit A-2A. There is also a certification from Joanne VanStolk stating she listened to the tapes of the Special Meeting of 2/19/97, she is eligible to vote tonight.
An isssue arose as to a deficiency in this application in the original denial of permit, whichwas marked as A-2, in that it was not noted on the denial of permit or on the application itself, that the dwelling unit on the property constituted a 2 family dwelling, and that changed the nature of the application substantially to a use variance. At the last meeting the problem was explained to Mrs. Rossetti, her daughter Mrs. Twaddell and her husband, and they are all here tonight.

Mr. Coan a board member suggested that they be made aware of the burden of proof that is necessary in a use variance, because it is quite substantial versus what the original application had requested. Rather than hold up the meeting that night, Mr.Byrnes suggested the Twaddells call him and he would explain.

The following week during the week of the 24th, Mr. & Mrs. Twaddell had scheduled an appointment to meet Mr. Byrnes at his office, which he felt was acceptable, and he reviewed with them the requirements for a use variance. He also suggested to them that they consider the posibility ofobtaining legal counsel in this matter, due to the fact that it is a use variance as they are a little more complicated than a hardship variance and that an attorney might be of assistance guiding them through. Over the next couple of weeks Mr.Byrnes received a series of telephone messages from Mr. Twaddell and from an attorney in Toms River and the messages alternated between I retained an attorney and I have not retained an attorney. On Friday Mr. Byrnes received a message from Mr. Twaddell that he had retained an attorney at lunch time and at 3 oclock he received a message that he had not retained the attorney (message left at office with Mr. Byrnes secretary). Around 4 P.M. Mr. Byrnes called the attorney's office and was told Mr. Twaddell was in conference with the attorney, so Mr. Byrnes did not know if they were going to be represented by legal counsel tonight or not. About 3:30 this afternoon Mr. Byrnes conferred with the attorney and he was told he was not retained.

A problem brought to Mr. Byrnes attention by Mr. Twaddell at the site inspection was that there may have been an improper discussion with one or more board members.
Mr. Byrnes asked for a statement from each board member that was at the site inspection as to whether or not they were approached by anyone from the applicant or on their behalf and if so the text of the conversation, as much detail as you care

to do. I will then ask Mrs. Rossetti and Mr. & Mrs. Twaddell for their comments on the subject. We do have to make a full disclosure because the comments made to Mr. Byrnes by Mr. Twaddell in his office he considers to be a potentially serious breach of the Open Public Meeting Acts, as initially was related to him.
The Board members at the site inspection were Mr. Coan, Mr. Brittle and Mr. Lyons.
Mr.Brittle stated no one on behalf of the applicamt had any discussions with him.
Mr. Lyons stated he talked to Mr. Twaddell on a house across the street that we had a case on several years ago and nothing else.
Mr. Coan stated at the conclusion of his site inspection I was on my way back to my car Mr. Twaddell approached me and asked me about what the proofs were for the use variance. He stated he explained to him that they were positive criteria, negative criteria and special reasons, and unless the proper proofs were made I can't vote yes on the application, which is what the municipal land use law tells us. I suggested he get an attorney and planner. At that point I told him he has options here as to what you can do to complete the structure by summer time and he remembers stating "I wish I had as many options as you do". He stated he did not speak with Mrs. Rossetti at any time, as the applicant was not present. Mr. Coan said he did go over a couple of options - not extending over the porch and getting a permit immediately to complete the work, as that would be no expansion of a non conforming use, taking out the kitchen and using that as living space in the main house and that would not be a use variance, it would be a different standard, and those are basically the options we spoke about.
Mr. Twaddell testified he had no statement, but he spoke to Mr. Byrnes in his office but not onthe phone.

Mr. Byrnes asked all board members if they felt anything they heard here tonight by way of comments from the applicant or board member Coan, would in any way keep you from impartially fairly and objectfully judging this application? Mrs. Walsh answered no, Mr. Miller answered no, Mr. Lyons answered no, Mr. Brittle answered no, Mr. Hood and Mrs. VanStolk and Mr. Coan all answered no. When asked the same of Mr. Twaddell on behalf of Mrs. Rossetti he answered no.

MR. Brittle stated the amended denial is the same on the first page with the exception of the parking on the second page.

Mrs. Walsh stated given the change in the type of variances required, she would like to ask the applicant if they would like to make any additional statements concerning this application, before we open the floor up to the public.

Mrs. Twaddell had some photos which were marked as exhibit A-18,which consists of 4 pages. A-17 is the affadavit of publication of legal notice in the Asbury Park Press 3/8/97.

Mrs. Twaddell testified they did talk back and forth with Mr. Byrnes.To get an attorney and planner would have cost my Mother about $2,500.00 for tonight, and we frankly feel that what we are asking for is so minor, we are going to try and do it on our own. My mother is putting everything she has except what she has to live on in fixing up this house, so she can live here and be near us. We cannot afford a lot of fees.
Her Mother and father have owned that house since 1942. It has never been rented, strictly a family situation. The apartment was built by my mother & dad with their own two hands, and that has never been rented, strictly family deal. The cottage itself as of today is an original, Mrs. Twaddell believes it was built at the inlet and moved. In describing the photos, shows all the houses with the same roof line, we are the one that is the odd ball at this time. All the houses started as a one family cottage. No. 53 beachfront is a 35 ft. stucco, zones 1 family with an apartment in it. The minute it was built it has been rented, (25 people in it last summer). No. 48 a small cottage with 2 family and 2 rentals, No. 55 Beachfront has 3 occupancies in it. We are talking about surrounding her house with 12 occupancies. My mothers is the only owner occupied.
Mrs. Twaddell testified No.52 First Ave. had a permit in1987 to enclose existing porch to construct and winterize kitchen addition in porch area, which is a similarity in what we are asking to do. It is her understanding that at the time that was done we were still in R-4 Zone. It is really wonderfull looking and we are delighted with it. It did impact the light in our area. When this came up before the board, Mrs. Twaddell went before the board and asked about the impact it would have on our light and air. She was told "excuse me Mam but you are out of order, this is nothing that we concern ourselves about".

Mrs. Twaddell said she believes her mother Mrs. Rossetti age 93, may be the oldest original owner of a house in that whole beach area. She is a handicap lady. She drove a car up until a couple of months ago, but has eye trouble now. Her husband who died a couple of years ago had Alzheimer's and she had a lot of stress. She wants to live on her own - she will not live with us.

When we went before the Board, we were very nieve, we thought this would be such a simple matter, so we started to gut the place, we didn't do any major structuring but we gutted the place. We took the furniture and got rid of it. We cannot reasonably do this without encompassing what we are asking for. We need the room, it's a tiny place. This is not impacting negatively on anybody, we're not blocking any one, there is

no one here to object. The neighbors think it is great. Evey one else is allowed to do all these things, - maybe she waited to long.

Mr. Hood said all on the board would like to see your mother move into that house, but the problem arises from I believe the apartment down below. Mr. Hood said the zoning came into effect in 1938 in Manasquan, did you at time get a variance to do the repairs at that time. Mrs. Rossetti doesn't remember. Mrs. Rossetti testified it was never rented, my grand daughter lives down stairs in the summer all by herself. All the other apartments around there are rented and now their trying to keep us from using it as it was for many years. It's not fair to try and keep a little apartment, that doesn't bother anyone.

Mr. Twaddell told Mr. Hood the house next door did exactly what we are asking for, was permitted to do so by the town and the law that is in effect now was in effect then. Mr. Hood said unfortunately a lot of things pass by. When we see them here we stop them. Mr. Twaddell said " your not saying the town is inconsistent are you ?" Mr. Hood replied it could be.
Mr. Coan said the unit your speaking of that has the pictures # 52, are saying that that is a 2 family also. Mr. Twaddell testified yes.

Mrs. VanStolk's problem is also for the apartment, but not for the family, but when you sell the house, you yourself admitted you don't like the other apartments because it brings in a lot of renters, the same thing is going to happen here, they might not want to keep it for themselves.

Mrs. Twaddell testified "we have to look at the reality what is down there, I think we are all vey familiar with it, no body in those houses will ever try to come before this board for a variance to do any improvements on any one of those houses down there and give up a rental that their getting from those properties. Now there is no way in the world that one continuing apartment in that area is going to impact on anybody, believe me. My parents have paid double sewer and water on that house we'll say thousands of dollars that went out in payments to maintain that privilege, now because we simply want to extend a roof line out and make a place for this lady to come and live, we're suppose to devalue that house in order to make these minor changes. You can sit here and say I'm sorry, this is the law, theres a common decency and a fair one that should exist here. Why should we, the most law abiding, never bothering anyone kind of family, that you would like to see down that beach in Manasquan. There is no room to put an inside stairway in it".

Mr. Coan spoke about parking problems. You only have 2 parking spaces, you need 4.
Mr. Twaddell testified that one of the biggest points his wife

has made is that the people you want to discipline down there as far as their buildings are concerned, you'll never see in front of the board, because their not going to take the chance of loosing their imcome on the basis of the apartment. It's just not going to happen, as a result the degrading of those houses is going to get worse. We're talking about old time Manasquan people here.

Mrs. VanStolk would like to see a stipulation on the deed that this will never be a rental apartment. Mrs. Twaddell said that is a very hard thing to accept. Our neighbors have been able to improve their house and they have an apartment that is rented.

Mr. Hood told the Twaddells that they used the water & sewer for all these years, so you didn't pay for anything that you did't get use of.

Mr. Twaddell testified it will not affect ligh and air to the neighbors and no increase in traffic, it will improve the aesthetics. All utilities will be improved, and it will increase the value of the neighborhood. We are not changing the foot prints on the lot or not changing the coverage on the lot.

Mr. Wm. Reynolds, 315 First Avenue came forward and was sworn in by Mr. Byrnes. Mr. Reynolds asked if they intended to rent this apartment out? Mr. Twaddell said no and it will never be rented.

A motion to close the public session was made by Mr. Miller, seconded by P. Walsh, followed by the following vote: "YES" T.J.Coan, J. Miller, N.Hood, J.VanStolk, P.Walsh, R.Brittle, E.Lyons.

MR. Miller quoted from The Multiple Land Use Law - "40-55B-70 gives us the power to grant a variance as long as it does not substantially impair the intent and purpose of the zoning plan and zoning ordinance." As far as I"m concerned this does not. The foot print is not being enlarged, the use is in effect not being enlarged, what actually is happening, we are going from a 1940 building to a 1997 building. I'm for this variance.

Mrs. Walsh does not have a problem with this variance, she does not see any substantial negative impact this improvement will make, this structure is in keeping with the character of the neighborhood, it will be improved by appearance and by numerous safety measures, it will not be any increase in the traffic, no negative impact on the flow of air and light. Mr. Lyons has no problem and goes along 100% with Mrs. Walsh.

Mrs. VanStolk has a problem with the apartment and would like a stipulation that it would never be rented on the deed.

Mr. Coan doesn't believe all the proofs were made to his satisfaction, that there is negative criteria in terms of the parking. If they lose the apartment there is no negative criteria in terms of the parking as they will meet the ordianance. He feels that he has to abide by the stipulations given for the beach area.

Mrs. Twaddell stated, "she will be horribly disappointed in her whole feeling about this town if we're denied on this application. Somthing is owed here, based on the situation, and if your going to hold the line it's nonsensical and silly, and that is what everyone is saying about this application. I'm sorry I have to sit here and say that, but that's how I feel and anybody else that hears about it feels".

Mr. Hood stated he had a variance for 162 First Ave. in 1984 which was for a one story one family, with parking for 4, I made it 6. Next 161 Beachfront, it was a one family, one story, I made it a 2 story 2 family and I have parking for 6 cars. On 216 Second Avenue empty lot, zoned where I could build out right to the property line, I could have a store and an apartment above it, I asked for a 2 family, there is no 2 family zone, I got a variance. One 104 Curtis Avenue, zoned multi-family zone, I got a variance again to build another 2 family, I met my side lines, setbacks. On 165 First Avenue, 3 units, 2 story 2 family with a little building behind it, it did not meet side lines or setbacks, I needed a variance for use and to close in the front porch. Mr. Hood said the zoning came into Manasquan in 1938. Mr. Miller believes it came in 1947 or 1948.

Mr. Byrnes stated "this board is limited in it's review to testimony before the board, what it views on sit inspection and what is marked as exhibits into the board's file, so anything that was done outside of that should not be considered, because it is not here for viewing by all. Mr. Hood used the word heresay, that is blatant heresay, to say I looked somthing up and this is what it says. If records exist, they should be produced, but until they are those records should not even be considered in the board or any board member making a decision. We are limited to the public record here, site inspection and exhibits".

Mrs. Walsh going back to a statement that was made earlier stated "this is a board of adjustment to which residents come to appeal the zoning code, we sit here to judge each application on it's individual merit." Mrs. Walsh agrees with the applicants, that if we did not look at each application on it's individual merit, no one that currently owns non-conforming properties, would ever come before this board to improve their properties, and that concerns her. She does not think this application is going to have any negitive impact on the neighborhood, it's not going

to increase traffic, the parking variance is not out of line and she does not have any problems with this application.

A motion to open the public session was made by J.Miller, seconded by E.Lyons, followed by the following vote: "YES" T. J. Coan, J.Miller, N.Hood, J.VanStolk, P. Walsh, R.Brittle, E.Lyons.

Mr. Carmen Triggiano, 50 Central Avenue,a member of the Planning Board,also a member of the County Committe, was sworn in by Mr. Byrnes. Mr. Triggiano testified he was supposed to sit on the board if they were short a member, but they are not short. He did hear the tapes of the previous meeting. He testified he did go down to see the property in question. He did not get inside the house, but what he saw,and the way it is on the print, they could not take the downshtairs apartment and utilize it with the upstairs apartment. The only suggestion he has is that, if the apartment is used by the family, mother daughter, if it is sold under those conditions in the future they wouldn't have any problem at all. You do like to see improvements on the homes in the beachfront, this application probably would enhance that particular area.

A motion to close the public hearing was made by J. Miller, seconded by P.Walsh, followed by the following: "YES"- T.J.Coan, J.Miller, N.Hood, J.VanStolk, P.Walsh, R.Brittle, E. Lyons.

Mrs. Twaddell asked Mr. Byrnes if the resolution could be done tonight, so their not delayed on this, if it is approved tonight.

Mr. Lyons made a motion to approve and withdrew it.
Mr. Coan made a motion to approve this application with a stipulation on the deed that the apartment can be occupied, cannot be rented and that the house will go to one water and sewer, seconded by P. Walsh, followed by the following vote: :YES"- T. J.Coan, J.Miller, N. Hood, J.VanStolk, P.Walsh, E. Lyons. NO - R.Brittle.

A motion to memoralize this application was made by P.Walsh, seconded by J.Miller, N. Hood, J.VanStolk, P. Walsh, E.Lyons.

A motion was made for a 10 minute recess at 10:05 p.m. by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES" - T.J.Coan, J.Miller, J.VanStolk, P.Walsh, R.Brittle, E.Lyons. NO- N.Hood.

The Board returned from recess at 10:15 p.m. with the following roll call: T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons,J.Burke.
For the record Mrs. Walsh left at 10:05 p.m. Mr. Burke returned to the Board.

APPLICATION - 6-97 - John & Benedetta O'Grady -303 Beachfront
Board's file was marked as A-1 to A-7 by Mr. Byrnes. Owner wishes to replace structure destroyed by fire with one family dwelling. Application denied for the following reasons: 107-27 - Sideyard setback for a corner lot from Pompano Beach Ramp - 7Ft. required, 1 Ft. proposed. Building Coverage 35% maximum allowed, 40% proposed. Lot Coverage 50% maximum allowed, 70.5% proposed. And any other variances the Board may deem necessary. V-6 Flood Zone, R-2 Zone. HARDSHIP VARIANCE.
The land is owned by American Timber and John O'Grady has a contract to buy and build.

Kevin Thomas put himself on record as representing the O'Grady's. John O'Grady, 1695 Glendola Road, Wall Township, was sworn in by Mr. Byrnes. Photos submitted were marked A-8A to A8H.

Mr. O'Grady testified they are under contract with American Timber Co. to buy the property known as Block 185 Lot 1, 303 Beachfront. He testified it is on the beachfront to First Ave., most are multi house and close together. There is nothing on the property right now, it was a 2 story dwelling, which was destroyed by fire. On the north side is Pompano walkway, on the south the house was destroyed by fire and is now being rebuilt. Pompano walkway is for pedestrian traffic only.
One variance seeking tonight is for lot coverage. Mr. O'Grady testified the actual lot coverage of the former house is realatively the same as we are proposing. We are proposing 70.4% lot coverage which includes the patio and garage. The Building coverage was about 38.2% which includes the garage, but not the shed and shower that were on the back. We are proposing 40.6%. The former building had a sideyard setback on the north side 6 inches to the walkway on the south side 0.8.
Reference to A-7 Mr. O'Grady testified they propose to build a one family, two story house, 3 bedrooms,with a storage basement and 2 car garage underneath. The top floor will be a master bedroom open over the living room except for some loft area and a cat walk out to a covered deck. The proposal will meet the side yard set back to the south, but not to the north. The north will have a 1 ft. setback, and a 7ft. setback is required. It will increase the amount of setbacks from what was there by 1/2 ft.. The house they propose will be 24 ft.but due to the jog, they have a 35 ft. run in the house that will take them down to 19 or 20 ft.. They will have a 2 car garage and parking for 4 more cars in the driveway, a total of 6 parking spaces. The only variances will be for the north setback. The height of the building will be 30 ft. There will be a shower in the garage. Lot size is 30 x 140 ft. with the exception of the jog which is 3 ft. in depth, which runs for a distance of 2.65 ft. roughly in the middle of the lot towards the south. The deck on the front of the house will be raised and open, there will be a 13x8 ft. covered section coming out of the front door of the house and also out of the doors on the second floor.

The back will have a deck over the garage and the second floor will have a covered deck. Mr. O'Grady testified this is a single residence and they will be living there. They will comply with the flood requirements which require the building be placed on pilings. Pictures submitted for evidence were taken by Mr. O'Grady about a month ago. A-8A is a view of the propery looking from First Ave. looking to the east, right to the south and left to the pompany access way to the north. A8B a picture of the outside of the building that existed there. A8C-picture of the north walkway. A8D- picture of the Whiting access taken from the east looking west. A8E- picture taken before the garage and the destroyed building was taken down at 303 Beachfront, A8F - picture of the house that remains on First Ave. from the north side of Pompano Ave.. A8G -house on the south side of Whiting Ave., which shows the house right on the walkway. A8H picture taken of 303 Beachfront from the beach.

Mr. O'Grady testified the basement area will be a cement slab and will run right up to the front. Will never turn it into a living area and will be put in the deed.

Mr. Hood has a problem with the 1 ft. set back.
William Reynolds -315 First Avenue came forward and was sworn in by Mr. Byrnes. Mr. Reynolds stated a problem in Manasquan is that cerifiicate of occupancies have been issued for illegal residence. He also had problems with the impervious pavements.

A motion to close the public hearing was made by R.Brittle, seconded by E.Lyons, followed by the following vote:"YES" T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

There being no more questions a motion for a favorable resolution with the 2 deed restrictions, only one house on the lot and there will be no living in the basement area was made by J.VanStolk, seconded by E.Lyons, followed by the following vote: "YES" T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons and J.Burke.

APPLICATION - 7-97 - Myrna Tietz -397 First Avenue
Mr. Byrnes marked the board's file as A-1 to A-8. Schedule A-9A . Owner wishes to demolish existing one-family dwelling and construct newone family dwelling. R-5Zone. Application was denied for the following reasons: 107-27 - Lot Frontage - 40 ft. required, 28 ft. existing. Front Setback - 10 ft. required, 6 ft. proposed.
Sideyard setback - 5 ft. required, 3 ft. proposed (north side).
Building Coverage - 35% maximum allowed, 45.6% proposed. And any other variance(s) the Board may deem necessary. A-5 Flood Zone - structure must comply. HARDSHIP VARIANCE.

Keith Henderson, of Lautman, Henderson & Wight, put himself on record as attorney representing this applicant.
Witnesses Myrna Tietz, 12 East Spring St., Somerville, N. J. and Paul Lawrence, Richard Grasso Architect, Manasquan, N. J.
Mr. Lawrence has appeared before this borad before. He is a licensed architect in the State of N. J., working in the shore area for 8 years. He assisted in the plans before the Board.

Mr. Lawrence testified the site is typical Manasquan First Avenue residence, a small single family frame dwelling, not currently year round use. The front yard setback is a minimum of 8.3 ft. off the property line. The existing property on the south side has a set back of 8.58 ft. To the north the property has a setback of 7.84 ft.. The property to the south has a setback of 2.52 ft. and the property to the north has a setback of 4.65 ft. to the property line. There is no property to expand this application. They are proposing along the north side of the property line a setback of 3 ft. which is a considerable improvement of what is there. The front yard set back would be 10 ft. with a 4 ft. extension of a covered entrance. On the setback to the south they are proposing 5 ft.. Cars currently park on First Avenue and the rear of Timber Lane, which has room for 6 cars. Lot coverage is 36.4 proposing. Overall lot coverage including steps and the proposed wood deck the lot coverage would be 40.69% which is below the minimum of 50%.
The existing house ia a one story , we are proposing 2 stories. The building will be slightly over 30 Ft. high. On the rear yard they are proposing 30 ft. and 20ft. is required.

Mr. Lawrence testified this application is in keeping with the Manasquan Master Plan and a vast improvement over the present structure, aesthetically. This property is designed so it can never be a 2 family.

Mr. Henderson agreed to amend the application due to the front steps from 6ft. to 3 ft..
Mrs. Tietz testified she purchased the property 1941 and purchased the land 1996.

Mr. Frank Diana, 401 First Ave., was sworn in by Mr. Byrnes.
He is the neighbor to the south, for about 35 years now.
The structure will improve the neighborhood and he thinks it is great.
A motion was made to close the public hearing by J.VanStolk, seconded by J.Miller, followed by the following vote: "YES"
T.J.Coan, J. Miller, N. Hood, J.VanStolk, R.Brittle, E.Lyons, J. Burke.

A motion for a favorable resolution was made by J.Miller seconded by J. VanStolk, followed by the following vote: "YES"- T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, E.Lyons and J.Burke

RESOLUTION - 4-97 - Richard & Patricia Dunne - 458 Long Avenue.
The resolution was read by Mr. Byrnes.
A motion to approve the resolution was made by J.Miller, seconded by E.Lyons, followed by the following vote: "YES"- T.J.Coan, J.Miller, ~~N.Hood~~, ~~J.VanSteik~~, R.Brittle, E.Lyons and J.Burke.

RESOLUTION - 23-96 -Harcourt & Karen Ward - 11-15 Wyckoff Ave.
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by J.Miller, seconded by E.Lyons, followed by the following vote: "YES" - J.Miller, R.Brittle, E.Lyons and J.Burke.

There being no more business, a motion to adjourn was made by J.Miller, seconded and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

ADDENDUM TO AGENDA

THURSDAY APRIL 17, 1997

RESOLUTION - 5-97 - Gertrude Rossetti -50 First Avenue
To reopen case.

REQUEST FOR A SPECIAL MEETING FROM Keith Henderson For:
Joseph F. Carlet-113 Ocean Ave.
Kevin D.Toomey-59 Rogers Avenue

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

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ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

THURSDAY - APRIL 17, 1997 MEETING AGENDA

On Thursday April 17, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 3-97 - Cont. James Hope - ~~597~~ 579 Brielle Road

APPLICATION - 8-97 - Nanette Fick - 66 S. Farragut Avenue

APPLICATION - 9-97 - Elaine Diahy - 308 E. Main Street

APPLICATION - 12-97 - David & Ann Spratley - 319 First Avenue

RESOLUTION - 5-97 - Gertrude Rossetti - 50 First Avenue

RESOLUTION - 6-97 - John & Benedetta O'Grady - 303 Beachfront

RESOLUTION - 7-97 - Myrna Tietz -397 First Avenue

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

JOHN L. WINTERSTELLA
Mayor

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

SPECIAL JOINT MEETING OF MAYOR AND COUNCIL, PLANNING BOARD AND BOARD OF ADJUSTMENT.
APRIL 10, 1997 AT 5:00 P.M. in COUNCIL CHAMBERS OF BOROUGH HALL

AGENDA

Deputy Mayor Schmeling's welcoming statement to the audience.

Salute to the Flag.

Deputy Mayor Schmeling's statement re:
Open Public Meetings Act of 1975. Notice was given to the Coast Star and the Asbury Park Press on April 1, 1997.

INTRODUCTION: Purpose of Meeting

TOPICS: 1. Interaction of Boards.

2. Municipal Land Use Law (MLUL)

3. Zoning Board of Adjustment.

a. Introduction of members (John Burke, Chairman).

b. Statutory authority and responsibilities.

4. Planning Board.

a. Introduction of members (Chris Rice, Chairman).

b. Statutory authority and responsibilities.

5. Perception of Manasquan (6:00 p.m.)

a. Bill Wight.

b. Robert Wood.

REFRESHMENT BREAK

6. Master Plan.

a. History

b. Recent Zoning Changes.

(1). Changes to bulK requirements.

(2). Planned Multi-Family Residential

(3). Beachfront Residential.

(4). Exempt additions to non-conforming lots.

c. REVIEW.

7. Board Discussion.

a. Education.

b. Single Board

PUBLIC COMMENT

BOROUGH HALL, 15 TAYLOR AVENUE
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BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SOWECA, Municipal Clerk

SPECIAL JOINT MEETING OF COUNCIL, PLANNING BOARD & BOARD OF ADJUSTMENT.

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

APRIL 10, 1997, MEETING MINUTES

MANASQUAN BOROUGH HALL, 15 TAYLOR AVENUE, MANASQUAN, N. J.

Dear Council, Planning Board & Board Adjustment Members:

Enclosed please find a copy of the draft of the minutes for the April 10, 1997 combined meeting of Council and both Boards.

Board of Adjustment Chairman John Burke opened the meeting at 5:15 p.m. stating this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the salute to the Flag.

ROLL CALL: Board of Adjustment - T.J.Coan, J.Miller, N. Hood, J.VanStolk, P.Walsh R.Brittle, M.Kazenmayer, E.Lyons, J.Burke

PLanning Board - C.Rice, Chairman - R.Zanes, P.Dunne, P.Walsh, D.Place, N.Hamilton, J.Mastrian, R.Ratajack. ABSENT - Mayor Winterstella, W.Schmeling arrived at 5:20 p.m and C.Triggiano arrived at 5:25 p.m..

Council - William Schmeling, Brian Holly, Michael Long.
ABSENT - Mayor Winterstella, James Blumenstock and Eden O'Hare.

John Burke, Chairman of the Board of Adjustment, introduced all the members of the board.

Chris Rice, Chairman of the Planning Board, introduced all the board members, also the Planner Mr. Szymanski and the secretary of both boards Marie Applegate.

Mr. Schmeling took over the meeting at this point, and apologized for being late.

Mr. Schmeling stated the purpose of this meeting is a two fold meeting, originally it grew out of a discussion between Planning Board members and Board of Adjustment members, as to how better to relate between the two boards. After discussion betweeen the boards and council the chairman and council decided to expand beyond those purposes with regard to redevelopment in Manasquan, and how the Master Plan hinges on the development in Manasquan.

What does the Master Plan say we're doing in town, what have we been doing, and how the board is implementing those uses of the Master Plan, to make sure that everyone understands what the Master Plan does about Manasquan, where the development is going and are we really moving in those directions.

We in Manasquan have two active Boards, some towns have trouble getting members, but in this town we have no trouble.

He stated the boards do interact. The Planning Board is really a generalist, we kind of set the purpose, set the tone for where the development is going in town for which we prepare a Master Plan, which I hope all the members of the Board have one and have looked at. Our Master Plan was adopted back in 1992. We presently are discussing whether we need to review that and re-examine to see where we are going. The Board interaction goes with the Planning Board being the generalist, we look to set the tone for development in town, look at the various zoning districts, and say is this the proper zoning, does this make sense in this town to be zoned this way. There isn't a lot of property left in Manasquan, there isn't even a lot of areas that are able to be commercially developed that requrire a site plan.

Mr. Schmeling stated the Zoning Board does the practical nuts and bolts work. The purpose of the Board is that it takes the specific application and says how does this application deal with the ordinances that have been adopted by the Council, generally at the request of the Planning Board. The Zoning Board looks at it and sees whether it meets the requirements of the zoning, if it needs a variance, (because they are looking for some relief from the bulk requirements, which have to do with side yards or where the house is situated), or they might be asking for a Use Variance, because they want to put a use in the property that isn't permitted..

The Council also adopts the ordinances which may come to either the Planning Board or the Board of Adjustment, or the Council may take the initive and propose certain zoning ordinances. All these actions are proposed to further the Master Plan.
After all those are taken place both our Code Enforcement Officer and our Zoning Officer are involved in making surethat applications that are heard before the Board of Adjustment or before the Planning Board, what ever approvals are granted that they are followed through on. In addition the Code Enforcement Officer and Zoning Officer look around town to make sure that certain development doesn't take place without the proper permits and proper approvement from the Board.

Mr. Szymanski stated from his perspective another thing that percipated this meeting is that the Borough is required to reach a statuatory requirement. The Statuatory requirement coming from the Municipal Land Use Law, that says the town at least every 6 years must re-examine it's Master Plan redevelopment. This is sort of a kick off of that process. It doesn't mean we're going to change the zoning ordinance and it doesn't mean we're going to change the Master Plan. There are certain statuatory criteria that have to be satisfied for that process, that get's culminated in a report that is adopted by the Planning Board at a public hearing by resolution.

In Manasquan the first adopted zoning oordinance was in 1947. Mr. Szymanski doesn't know when Manasquan adopted it's first Master Plan, but there surely was one in the 1960's because he saw one. He stated he got involved with Manasquan in the mid late 1970's when in 1978 a Master Plan was prepared,and it was followed up in 1982 and in 1988 was a re-examination that were done by the Planning Board that really didn't change the Master Plan, but in 1982 it initiated the word that went into adopting the current Master Plan, which was adopted in 1992. A part of this plan adopted in 1992 the Borough also had to adopt a housing element which it never had to do before to meet it's Mount Laurel obligations, which in terms of new construction became zero as the County bought the only vacant land that is more than 2 acres in size that could be developed and that is the Cove, although there is a rehabilitation requirement that is still be worked on.

The re-examination process involves the Borough looking at it's major imprint. The re-examination process is primarily the responsibility of the Planning Board. They are determined to reach out not only to the Zoning Board, but will be reaching out to the Environmental Commission, Shade Tree Commission, the Recreation Commission etc.. It will also look into things that are happening around the State. Mount Laurel requirements will have to be addressed.

Mr. Schmeling stated back in 1975 was that the State Legislature at that time adopted the Municipal Land Use Law. Up until that time there were a lot of diverse laws that dealt with planning, zoning, both on the State level throughout different communities. That law attempted to do was to codify all the Zoning & Planning Legislation under the Citation 40; 55E-1, and that is the law that currently governs the Boards, and that is where our power comes from. Those are the rules and regulations that we really are requaired to follow when applications come before us. Basically it set up different criteria for Planning and Zoning and gave those powers to Municipalities, but whats important to us is to keep in mind when we have applications before us we have to strictly comply with that ordinance. Basically while it gave Municipalities a lot of power to act on those applications that come before us, we still have to follow the rules and regulations of the Municipal Land Use law.

Mr. Rice stated this is the Land Use laws we are presently using, and there are quite a few guide lines we are supposed to follow. Some of them are: Secure safety from fire, flood panic. Natural and man made disasters. Provide adequate light, air and open space. Promote establishment or appropriate population density that are to contribute to the well being of persons, neighborhoods, communities or regions in preservation of the environment. To encourage the location and design of

transportation. To promote a desirable and visual environment to create a development technique of specific design and arrangements. Those are just a couple of what is in here.

The Board of Adjustment was given the primary areas to deal with variances. Variances are those which we call exceptions from our Zoning ordinance, and they primarily deal with exceaptions from the bulk requirements, they are the height of the building, or how close you are to the side yards etc..
Basically an application comes to them either a person goes and applies for a building permit and they get turned down or they know they aren't going to get it and they go directly to the Board of Adjustment. The primary variances are up to 1984 you could only get a variance if you could prove a hardship, and in 1984 that was changed and some criteria were added that made it more liberal. One of the questions you might want to discuss here, is what is a hardship? In that case we have to look at the Land Use Law and the Case Law to tell us what a hardship is. In the town of Manasquan, the reason we are so busy is that people want to improve their homes. We need to know when people come to us, what is a hardship.

Mr. Szymanski explained a hardship is something that you can have either a C1 or a C2 type of variance application. A C1 is your classic hardship where by the particular shape of the piece of property or some paculiar feature of the property you have a hardship situation and justify relief of what you are asking for. C2 variance is where you can show where you want to place a building where it does not meet the ordinance requirement, but by putting it in that location it promotes the purposes of objectives of Municipal Land Use Law.
To sell property for more money is not a hardship.

Mr. Burke stated a lot of people come before us stating they want to do this with their house as the board granted the people down the street permission to do it 10 years ago, we can't do it now as 10 years ago it was a different board, different circumstances, we can't take that into account, we have to look at every single case on that individual case basis and we have to made our determination on the testimony given on that particular case. We can only look at neighbor hood that pretains to that property, abuting it or houses along side.

Bill Wight from Ward Wight Realty came forward and gave an overview of what people see in Manasquan and how they think of Manasquan. He frankly thinks that people sell thier homes in Namasquan, he never hears any negative reasons, usually just personal needs with the exception of taxes. The attraction of it is the schools are a draw, people who are attracted to samll communities, the down town is nice, the attraction of the town, the east of the track people who summered here and

who want walking distance of the beach, and the main draw is the ocean and the beach. Another thing that may not be obvious to anybody is if they are buying in Manasquan, it doesn't make any difference if they are in the beach area or in town. The beach is creeping to be a year round place. One out of every 3 is the objective is to move into that house year round or to move into that house soon year round.

Mr. Burke stated most cases coming before us over the past 2 years, have gotten numerous use variance cases for the beach front area. because of the size of the lot, but He would say every single one that has come before the Board of Adjustment for a complet redesign and complete rebuild of the house, has been because they want to move down here and live permanently.
A lot of the houses were able to buy the land from American Timber, and almost all the cases are coming for variance so they can put a second floor on and expand the house so they can live there year round.

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

JOHN L. WINTERSTELLA
Mayor

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - APRIL 17, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on April 17, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 p.m.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROll CALL: T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons and J.Burke.

APPLICATION - 3-97 Cont.-James Hope - 579 Brielle Road
As requested at the last meeting an amended denial of permit has been received from the construction official, dated 4/9/97 and it has been marked as exhibit A-2A as original denial was marked A-2.
A motion to close the public hearing on this application was made by Mr. Brittle, seconded by Mr. Hood, followed by the following vote: "YES"- T.J.Coan, J.Miller, N.Hood, J.Vanstolk, R.Brittle, E.Lyons and J. Burke,

Mr. Hood stated Mrs. Walsh asked for the elevation certification and he said he sees it is 1'4" under flood elevation. He stated since it is a use variance it is more of a risk. Mr. Hope said Mr. Ratz told him it would have to go in the attic and that is where the heat has been put.
T.J.Coan's concern is that the lot is undersized and is way over on the existing lot coverage. If you put heat in, it's a benefit to the applicant but not to the neighborhood.
Mr. Burke said a benefit he saw was upgrading a rental by putting heat in, it would upgrade the tennant also.
Mr. Hope stated he takes houses, fixes them up and sells them. There are 4 houses on Brielle Rd. that he has fixed up.
Mr. Hope said the house had heat in it, which were two units attached to the wall.
Mr. Burke gave Mr. Hope an option, of going up to talk to Mr. Ratz, and coming back to us at the next meeting.
Mr. Byrnes told Mr. Hope if there was heat in the house at some point and time, regardless of whether you ripped it out or it just stopped working, that house had heat. No one intended for it not to have heat, you simply replaced an old unit with a new unit. If that's the case then you don't have to be here and you don't need a variance, so if you explain it to the construction official or the zoning official, that the heat was there and you simply replaced it, that is a factual statement.

Mr. Hope will continue this for a month, so he can talk to Mr. Ratz. If Mr. Ratz gives a permit, Mr. Hope just has to withdraw his application.

A motion was made to contine this application to the May 21, 1997 meeting, by J. Miller, seconded by R.Brittle, followed by the following vote: "YES"-T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons and J. Burke.
Mr. Hope waived the 45 day period.

APPLICATION - 8-97 - Nanette Fick - 66 S.Farragut Avenue
The boards file was marked as A-1 to A-11. Block 125 Lot 1
Owner wishes to construct a two-story addition to the existing one-family dwelling. R-2 Zone.
This application was denied for the following reasons:
107-27 - Front Setback - 25 feet required, 3.25 feet existing. (proposed addition will have 11.2 feet setback). Maximum Building Coverage -30% maximum permitted, 31.6% proposed. And any other variance(s) the Board may deem necessary. A-5 Flood Zone - structure complies. HARDSHIP VARIANCE.

Nanette Fick, 66 So. Farragut Ave, and William Fick, 66 So. Farragut Ave. were sworn in by Mr. Byrnes.
Mrs. Fick testified the main reason is there is no laundry for 6 months of the year, as it is out in the garage, which we never rented or never would rent, as we used it for our children.
In discussing photo's which were presented, the house jigs and jags. The kitchen area which is what you see with the railing, that is the 11.25 and that is the point where we would like to expand out 10 feet horizontal, straight out, which would give us an extended kitchen which we would like to eat in, gives us a laundry area, it gives us entry area, which is the only way to get into the house without destroying somthing else that is in the house. It also keeps the integrity and character of the house, which is why we bought it. This is a typical Manasquan house and when the addition is put on it will be clear that that is an addition and it will look great. The builder said it will look like it has always been there. It will give us a large family room. She testified she did show the plan to her neighbors next door, across the street and the neighbor in the back did not need to see the plans, as he liked everything we have done with the house.

The house was purchased in 1985, and they own the land.
Mrs. Fick feels it will look much better when the addition is put on. Mr. Fick testified it will be a benefit to the area.
They are adding on to the North east side of the house, they are expanding 10 feet towards the garage and expanding 12 feet to the East of the property and still staying within 5 ft. of the property line. The only changes to the house are going to be over that kitchen area towards the garage and the back of the property. It will be a white clapboard on the new addition upstairs. The house has already been raised above flood level.

Mrs. Fick testified the structure behind the garage is a bedroom

and bath, it also has a 5 foot wide porch attached to the back of the garage. Mrs. Fick testified there will be no changes to the garage, and will never be rented. There is no food or cooking in the structure. Mr. Coan asked if there would be a deck on the back and Mrs. Fick testified no. She testified the height is 27 Feet. She testified they are not going to have an outdoor shower, it will be inside where the washer and dryer are. Mr. Hood wanted to know if they would put it on their deed that the room in back of the garage will never be rented. Mrs. Fick said she would not have any problem with that.

Mrs. Walsh arrived at 8:35 p.m. and will not be able to participate in this application.

A motion to close the public hearing on this application, was made by J.Vanstolk, seconded by J.Miller, followed by the following vote: "YES"- T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons and J.Burke.

Mrs. Fick testified this will have no effect on air or light on their neighbors. It will increase the value of property in the neighborhood.

Mr. Hood moved for a favorable resolution on this application with a stipulation that the height of the new addition will not be more than 28 feet and a stipulation on the deed that the room in the garage will never be rented, seconded by T.J.Coan, followed by the following vote: "YES"-T.J.Coan, James Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons and J.Burke.

Mr. Byrnes told the Fick's that even though the resolution will be read at the May 21, 1997 meeting, there will be a condition in there, that you must file the deed with the Clerk of Monmouth County setting forth the two restrictions in there. Your building permit will not be issued until the deed has been recorded and he has been provided with a copy of it, and also that the Board Secretary has been provided with a copy for the file, without that no permit will be issued.

APPLICATION - 9-97 - Elaine Diahy - 308 E.Main Street
The Board's file was marked A-1 to A-12.
Owner wishes to construct additions to existing dwelling and add a second curb cut. R-1 Zone.
This application was denied for the following reasons: 107-27 - Rear setaback - 20 feet required, 13 feet existing. 107-23.- Curb cut in residential zones, Maximum allowed 1 proposed 2. A-5 Flood Zone - Work must comply. And any other variance the Board may deem necessary. Hardship Variance.

Elaine Diahy, 308 E. Main St. and Ronald Diahy, 308 E.Main St. were sworn in by Mr. Byrnes.
Mr. Diahy testified he built exhibit A-12 to see how it would look before they built it. The exhisting house is 1600 sq. ft. and the addition is 800sq. ft.. After building the exhibit they liked it so that is what they are going to build. He testified they are adding a den downstairs with 2 bedrooms and a bath on top, with a wrap-around porch down. We have 2 children and want more, so we want another bedroom. On the curb cuts, we don't have a back yard, only a front yard. We would like to take the driveway out and make a horse-shoe drive out in the front. It is hard backing out on Main St. so by making a horse-shoe it would be a lot easier to pull out. One curb cut is existing and we would just be making another cut.
Mr. Burke said the concern of the Board is that there is a law in town about parking anything in the front yard, and the Board doesn't think it would look nice to have 2 vans parked right in front, they feel it would be better to have them on the side. As far as the addition is concerned, the Board has no problem with that, it is only the curb cut and a driveway to park 3 or 4 cars right across the front of the property.
Mr. Burke stated we will take a 5 minute break and you and your wife can talk it over, to see how you want to handle it.

Motion was made by Mr. Miller for a 10 minute recess at 9:30 p.m. seconded by P. Walsh, followed by the following vote: "YES" T.J.Coan, J.Miller, N. Hood, J. VanStolk, P. Walsh, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke

The Board returned from recess at 9:45 p.m. with the following ROLL CALL: T.J.Coan, J.Miller, N.Hood, J.VanStolk, P.Walsh, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

Mr. Diahy testified, they would like to withdraw 1 curb cut.
Mr. Burke told them, by withdrawing, now you still have an option of coming back again.
Mr. Burke stated on your denial 107-27 remains, 107-23.3 is what you are asking us to withdraw.
Mr. Diahy testified he purchased the property in 1986, they own the building and land.

Mr. Diahy testified it will not affect the light and air to any neighbors, and it will improve the looks of the house, and it will have no effect on the zoning of Manasquan.

Mrs. Walsh made a motion to close the public session on this application seconded by J.Miller, followed by the following vote: "YES" - T.J.Coan, J.Miller, N.Hood, J.VanStolk, P.Walsh, R.Brittle, M.Kazenmayer, E.Lyons and J.Burke.

A motion for a favorable resolution on the amended application

was made by J.VanStolk, seconded by N.Hood, followed by the following vote: "YES"-N.Hood, J.VanStolk, P.Walsh, R.Brittle, M.Kazenmayer, E.Lyons, and J.Burke.

Mr. Burke congratulated Pat Walsh, as of Monday she will become a member of the Board of Education. She will have to resign her membership from this Board and she will be very much missed.

APPLICATION - 12-97 - David & Ann Spratley -319 First Avenue
The Board's file was marked as A-1 to A-9.
Owner wishes to domolish existing one family dwelling and construct new one-family dwelling with detached garage. R-5Zone. This application is denied for the following reasons: 107-27 -Lot Frontage - 40 Ft. required, 35Ft. existing. Front Setback - 10 Ft. required, 9 Ft. to building, 5 Ft. to steps. Accessory Building - Front setback from Timber Lane - 10 ft. required, 5 ft. proposed. Building Coverage - 35% maximum allowed, 38% proposed. 107-036.A - Off Street Parking - 2 spaces required, 1 space in garage provided. Section 107-23.3 permits only one 12 ft. curb cut where property has only a one car garage. A-5 Flood- Structure will comply. And any other variances the Board may deem necessary. HARDSHIP VARIANCE.

Ann Spratley, 319 First Avenue and David Sprateley, 319 First Avenue, and their architect Tom Petersen, 48 Federal Key, Colts Neck, N. J. 07722, who has had his license since 1980 and has been before various boards, also this board.

Mr. Spratley testified, they want to live in Manasquan, and as of today at 2:00 their primary residence is Manasquan. He testified they came to Manasquan about 20 years ago and are going to retire here based upon what is going to happen tonight. Mr. Petersen testified they are going to demolish the existing structure and rebuild. On the front setback we will be in line with all the other haouses. The existing structure is at 9.05 ft. and the steps will be turned side ways instead of coming straight out. The single car garage in the rear, is at 5 Ft.and 3 other garages on the street are right on the street. The building coverage they worked hard to keep that as tight as they could. Off street parking they have provided one. On the side of the new structure there will be a drive which will provide 2 parking spaces. There will be 2 curb cuts, one in the front and one in the rear. The current curb cut will be removed. The new structure will have a porch, living room, dining room, kitchen, den and powder room downstairs. The second floor will have a master bedroom, bed room, and 2 baths, the loft will be a bedroom. The cupola is for aesthetic purposes only, to keep the house from looking long and narrow,as testified by Mr. Spratley. The roof line is 28 ft. in the back and 26 ft. in the front. The height with the cupola will be 35 ft. There will be an enclosed shower on the side in the rear and

will comply with the Boro code on the drainage. The hard copy of the plans was marked as exhibit A-9. The driveway on the north side of the house will be stone and will go back to the enclosed shower. The deck on the second floor is 4x8 which will be a shelter to the first floor.
Mr. Hood had a problem with the height of the garage which is to be 14 ft. Mr. Petersen testified they will be able to bring it down to 12 ft.

John Boyle, 317 First Avenue, was sworn in by Mr. Byrnes. He testified he is the neighbor and his concern is the new driveway on his side, how long is it and how wide is it and how will they contain the stones in there? Mr. Petersen said the width is 9 ft. the length from the property line back is approximately 40 ft. and from the edge of the house 31 ft.. He also complained about the drive way being only 9 ft. wide and it is going to be very tight. His bedrooms are on that side and they have a lot of cars and it's so narrow their only going to be able to get out on the drivers side. They have a lot of cars there, 5 or 6 at a time. Mr. Boyle stated the garage is in a very precarious position even though it is 5 ft. off Timber Lane. The hours of construction is 8 am to 6 pm Monday through Saturday.
Mr. Byrnes asked Mr. Boyle if there will be sufficient room in the driveway area for a passenger to open the door and get out of the car without hitting your house. Mr. Boyle stated there is 5 ft. Mr. Boyle wanted to go on record how he feels about it, that it is going to be very tight, not the house but cars parking and clearances.

Mr. Brittle made a motion to close the public hearing, seconded by J. Miller, followed by the following vote: "YES"-T.J.Coan, J.Miller, N. Hood, J.VanStolk, P.Walsh, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

The property was purchased in June 1996 also the land.

A motion by Mr. Hood for a favorable resolution with the stipulation that the south side curb cut on First Avenue be closed and eliminating the garage height to 12 ft. on Timber Lane, seconded by J.VanStolk, followed by the following vote: "YES"- N.Hood, J.VanStolk, P.Walsh, R.Brittle, M.Kazenamayer, E.Lyons, J.Burke.

APPLICATION - 5-97 - Gertrude Rossetti - 50 First Avenue
Request to reopen the case of Gertrude Rossetti. Mr. Burke cannot participate in this case as he resides within 200 ft.
Nancy Wright, Attorney with Bathgate, Wegener & Wolf, put herself on record as representing Gertrude Rossetti.

Mr. Byrnes gave a back ground of the case up to this date.

At the March 19, 1997 meeting the application was completed and the resolution was passed on that date and at the request of the applicant memoralized. All that had to be done was for resolution to be written by Mr. Byrnes and read into the record tonight and voted on by the Board Members.
When Ms. Wright told Mr. Byrnes she wanted to reopen the case, he advised her that it is a difficult burden at best to reopen somthing that has been concluded and he discussed whether or not this was going to be a new application or a change, and she advised that it was not. She requested that the matter be placed on tonights agenda and after confirming with the Chairman, it was agreed to be put on because certainly the applicant has the right to make this request.

Mr. Byrnes stated the proceedure tonight will be 2 fold. Before he does that he will note that there is in the file a certification from Marge Kazenmayer, she has listened to the tapes of March 19, 1997 meeting, also the February 19, 1997 meeting.

Ms. Wright will be seeking to ask the Board to re-open the hearing and will state her reasons as legally why the Board should consider. No testimony will be heard at this point. After Ms. Wright has stated her reasons and answered any questions from the Board as to why the matter should be re-opened, the Board will then vote as to whether or not they will allow it. If the Board does not allow the matter to be re-opened, then that will conclude this part of the agenda. If the Board agrees that the matter should be re-opened then Ms. Wright through her witnesses will be able to address what ever issue or issues she is going to set forth in her motion to re-open. There will be no new evidence on new issues. The application will not be amended, this is not going to be a new application, and we're not going to go over old ground. Testimony will be limited to that which we will be discussing when Ms. Wright makes her presentation.
The grounds or burden of proof which must be met, is a difficult one because Boards of Adjustment, their determinations are subject to reconsideration and revision by the agency itself and a re-hearing and taking new evidence is allowed, so long as the Board retains control of the proceedings and the rights have not vested. The applicants rights have not vested because this application was not formally concluded because the resolution had not been read into the record before hand. Had it been, Mr. Byrnes didn't think we would be discussing this.

Mr. Byrnes said the only 3 areas that allow an applicant to re-open, would be fraud, mistake or substantial change in the prior proceedings. As Mr. Byrnes spoke to Ms. Wright, no one has even mentioned the word fraud other than to see that it does not apply here, so now we have mistake or substantial change

in the prior proceedings.
Ms. Wright said the purpose of them being here is a mistake in the prior proceedings. She testified she listened to all the tapes and many times repeated in the tapes was the statement of this multi-dwelling being in violation of the ordinance when it was first inacted in 1938. This is a mistake that created a very substantially stringent review of this application. The application merely sought extension of a roof line for a property that had a pre-existing non-conforming use. It appeared that the standard of review was very stringent based on an over riding scene of prior violations, which was a serious mistake on the record, and that was not corrected.

The second area of mistakes was that the porch area was stated not to be enclosed. If you look at the pictures, the porch area was not enclosed at the time. It was a mistake for the Board not to be informed of the fact that that porch area had storm windows, that infact enclosed the whole porch area. This application was to extend a roof line approximately 5.9 feet.

Ms. Wright would ask the Board to consider allowing the record to be opened to specifically address the history of the ordinances and this property in the Borough of Manasquan and to address the use of the enclosed area of the porch historically on the property.

Mr. Byrnes said he thinks the Board should give strong consideration to allowing the applicant to present their proofs and hear what they have to say.

Mr. Coan felt that the case should not be re-opened. Mr. Miller and Mrs. Walsh disagreed with Mr. Coan and would like to see the case reopened.

A motion to reopen this case was made by P. Walsh, seconded by J.Miller, followed by the following vote: "Yes"-J.Miller, P.Walsh, R.Brittle, E. Lyons. "NO"- T.J.Coan, N.Hood, J.VanStolk, M.Kazenmayer. 4 Yes and 4 No

Mr. Byrnes stated without a majority to re-open it cannot be re-opened.

Ms. Wright stated she found it difficult to understand when an item as critical as when the first zoning ordinance was enacted was so discussed from the record and when statements as critical as that the property was in violation went on the record, that the Board wouldn't afford the opportunity to someone who has owned that property for over 50 years, a chance when so much is at stake at this point in that property owners life, to take 10 or 15 minutes to allow the property owner to address

and clarify what the property owner deems as mistakes of record. There were statements on the record, there were inconsistant statements that were never resolved the night of the meeting, No. 1, because no first zoning ordinance was produced that night to resolve the issue with any formality or any legality. Secondly in terms of the porch windows, you saw what you saw, but you haven't even provided them with the opportunity to explain what the windows did and how that affected the porch and what that does to this application, and they did not have the opportunity of having legal counsel and for an extension of a roof line of 5.9 ft., you required that in essence they eliminate an apartment that was a right, that went with that property for over 55 years, that is not at all impacted by the application before the board, specifically by the extension of the roof line. More importantly you do not need and your not doing any thing to me, this is a property owner that has lived here for 50 years. How can you sit there and not allow them to just present their case, some one that is 93 who has sat here all night. As a courtesy you can't just let some one come up here and speak when there were such discrepancies on the record.

Mr. Byrnes stated this matter is still on the agenda for reading of the resolution which he will do tonight, there is a restriction that has been placed by the Board on the deed. Mr. Byrnes would like the deed sent to him so he can read it.

Ms. Wright asked the Board if they won't consider opening a hearing for this, in the event an appeal proceeds on this matter, what she would ask is that the property owner would have the right to file with you an executed deed restriction in accordance with your approval and that the building permit proceed. That would be at the risk of the property owner, there would be no risk to the Boro or Zoning Board, because that deed would be recorded, because the condition associated with it would be one that would be up held by the court, or have to be recorded and you already have it exercuted, or in the alternative if they ever pervailed it would be lifted and either way they would have the right to proceed with the construction at their own risk.

A motion by T.J.Coan to hold the deed in escrow with Mr. Byrnes, it would be executed but not recorded in the county until such times as the determination was made, seconded by J.VanStolk, followed by the following vote: "YES" - T.J.Coan, N.Hood, J.Van Stolk, P. Walsh, R.Brittle, E.Lyons. "NO" - M.Kazenmayer "ABSTAIN" - J.Miller.

Mrs. Rossetti told the Board they must be very proud of themselves, your minds were made up before you got here. She stated, what satisfaction you get out of doing this. I never

said one word and I think I should have a chance to say somthing. I will never forget this to all of you.

A request for a special meeting by Mr. Keith Henderson was denied with a motion made by J.VanStolk, seconded by T.J.Coan, followed by the following vote: "YES" T.J.Coan, N.Hood, J.VanStolk, M.Kazenmayer, E. Lyons, J.Burke. "NO" - R.Brittle "ABSTAIN" J.Miller, P.Walsh

A motion to hold an extra meeting on May 28, 1997 to hold 4 cases with the express idea of advancing the calender was made by N.Hood, seconded by J.VanStolk followed by the following vote: "YES"- T.J.Coan, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke. "ABSTAIN" J.Miller, P.Walsh.

A motion to postpone approving the minutes of March 19, 1997 until the question on page 5 can be straightened out, was made by J. VanStolk, seconded by M.Kazenmayer, followed by the following vote: "YES" T.J.Coan, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke. "ABSTAIN" P.Walsh.

For the record Mr. Miller left at 12:01 A.M..

RESOLUTION - 5-97 - Gertrude Rossetti - 50 First Avenue
The resolution was read by Mr. Byrnes.
A motion for a favorable resolution was made by N.Hood, seconded by J.VanStolk, followed by the following vote: "YES"- T.J.Coan, N.Hood, J.VanStolk, P.Walsh, E.Lyons.

Mr. Byrnes wished Mr. Walsh the best of luck and it has been a sincere pleasure on his part to work with you over the years, we have not always agreed on every issue, and you have been a very good board member and have always tried to put the interest of the Borough and the Board in the forefront and put any personel prejudics or anything else aside and I appreciate that. Thank you very much and best of luck to you on the Board of Eduction.
Mrs. Walsh thanked him and said she hopes to do the same on the Board as she has here. She has enjoyed almost 9 years of service, and won't miss being here on Wednesdays.

RESOLUTION - 6-97 - John & Benedetta O'Grady- ~~50 First Avenue~~ 303 Beechfront.
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by N.Hood, seconded by J.VanStolk, followed by the following vote: "YES" T.J.Coan, N. Hood, J.VanStolk, R.Brittle, E.Lyons, J. Burke.

RESOLUTION - 7-97 - Myrna Tietz -397 First Avenue
The resolution was read by Mr. Byrnes.
A motion for a favorable resolution was made by N.Hood, seconded by T.J.Coan, followed by the following vote: "YES"-T.J.Coan,

N. Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

A motion to go into executive session was made, seconded followed by the following vote: "YES"- T.J.Coan, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

The Board came out of executive session at 12:30 A.M. with the following roll call: T.J.Coan, N.Hood, J.VanStolk, R.Brittle, E.Lyons and J.Burke.

There being no more business, a motion to adjourn at 12:33 a.m. was made, seconded and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
Incorporated December 30, 1887
908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - MAY 21, 1997 MEETING AGENDA

On Wednesday May 21, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 3-97 - Cont.- James Hope - 579 Brielle Road

APPLICATION - 10-97 - Dr. Frederic Paperth - 28 Union Avenue

APPLICATION - 13-97 - James Hope - 79 Second Avenue

APPLICATION - 15-97 - American Timber Co. - 309 First Avenue

APPLICATION - 17-97 - Lucy McClennen - 566 Whiting Avenue

RESOLUTION - 8-97 - Nanette Fick - 66 So. Farragut Avenue

RESOLUTION - 9-97 - Elaine Diahy - 308 E. Main Street

RESOLUTION - 12-97 - David & Ann Spratley - 319 First Avenue

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meeting).

REQUEST SPECIAL MEETING - Constantinou - Interpretation

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - MAY 21, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on May 21, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 p.m.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E. Lyons, J.Burke.

A motion to approve the minutes of April 17, 1997 with a correction on page 10 was made by J.VanStolk, seconded by R.Brittle, followed by the following vote: "YES" T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons and J. Burke.

Mr. Michael Parziale was introduced by Mr. Burke. He was sworn in by Mr. Byrnes, as a new member of the Board. Mr. Miller was the Board's first alternate, he now becomes a voting member of the board.

APPLICATION - 3-97 - Cont. James Hope - 579 Brielle Road
A letter from Mr. Ratz was received and is in the file that there had been heat in the house, and no variance will be needed to keep the heat in there, also a letter from Mr. Hope asking to withdraw his application, which Mr. Burke stated has been accepted.
MR. Coan said he reviewed the records from the tax office and they show that there was never any heat in the building, so he is a little puzzled as to how Mr. Ratz can make that determination and he just wants to make sure Mr. Hope doesn't withdraw his application only to come back again.
Mr. Byrnes stated Mr. Ratz made the initial determination that a variance should be requested, and it is Mr. Ratz who has now made a determination that a variance is not needed. Mr. Byrnes suggestion is that Mr. Hope be allowed to withdraw his application without prejudice and if any one comes in and seeks to have him come back in here to obtain a variance, that he be allowed to open the case at that point.
Mr. Burke and Mr. Coan will go and talk to Mr. Ratz.

A motion to accept Mr. Hope's withdrawal of his application without prejudice was made by Mr. Miller, seconded by M.Kazenmayer, followed by the following vote: "YES"-J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION 13-97 - James Hope - 79 Second Avenue
Mr. James Hope, 560 Salmon Avenue, was sworn in by Mr. Byrnes.

Mr. Byrnes stated this application is 13-97 -for property located at 79 Second Avenue, Block 163 Lot 6.
Mr. Hope testified yesterday afternoon one of his neighbors had reviewed this application, and Mr. Hope was told that in 1982 property of all four neighbors was purchased from Mr. Zanes. The survey I show which was done in 1986 was the one given to me when I purchased the property, and it doesn't show that I have more property than I thought. Mr. Hope testified everything about this application is wrong because it's a bigger lot than what's on this survey.
Mr. Burke stated what they can do is to continue this application at the June 18th meeting. In the meantime talk to Mr. Ratz, get a new survey as he will have to give you a new denial. Re-notification will not be required.
Mr. Byrnes opened the application and marked the file as A-1 to A-8. He stated a new survey, a new denial and a new application will be needed. A motion for a site inspection on this property on Saturday May 31, 1997 at 9:00 a.m. was made by M. Kazenmayer, seconded by J. VanStolk, followed by the following vote: "YES"- J.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION -10-97 - Dr. Frederic Paperth - 28 Union Avenue
Mr. Byrnes marked the boards file as A-1 thru A-9.
Owner wishes to construct 20 square foot sign. A-1 Zone.
This application was denied for the following reason:
107-80.B (2) (b) - Maximum size of free standing sign 9 sq. Ft. allowed. 20 sq. ft. proposed. And any other variance the Board may deem necessary. HARDSHIP VARIANCE.

Mr. Noel Hood owns property in the area so it will be necessary for him to step down and excuse himself from this application.
Additional exhibits submitted were photos and were marked A-9A to A-9F. A resolution from 1974 was marked A-10.
Dr. Frederic Paperth, 401 Sycamore Lane, Brielle, was sworn in by Mr. Byrnes.
Dr. Paperth testified he would like to put up a sign, as he and his tenants are having a problem with people missing the building. One reason is the signs are on the front of the building and it is hard to see when you are riding by. He would like to put up a sign on the lawn in front of the building.
Dr. Paperth testified to photos of signs that are across the street from his building, which is what he would like to do.
Dr. Paperth testified, that when he put the building up in 1973, he applied for a variance to put up a sign and was approved, but then decided not to do it. He did not know it was only good for a certain amount of time, so that is why he is back now.
Originally they allowed him to put the sign further south in front of the building, now he would like it closer to the corner in front of the building. It will be 29 ft. from Euclid Avenue and 12ft. 2 inches from the curb on Union Avenue. It will be

an aluminum sign, lighted internally, with four names on it, a simple directory sign. Dr. Paperth testified there are 7 signs on his building now. He has 4 tenants now and 5 people, as 2 people share one office. He testified Dr. Jasaitis sign is 55 inches by 39 inches approximately, and 28 inches off the ground.

A motion to close the public hearing was made by Mr. Brittle, seconded by E. Lyons, followed by the following vote: "YES- T.J.Coan, J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, and J. Burke.

Dr. Paperth testified it will be a plexiglass directory sign, .40 gauge baked enamel aluminum box framed internally with galvanized angle iron with four lamps.

T.J.Coan had a concern about the site triangle of the sign, and the 7 signs on the building.

Dr. Paperth testified there are only 2 offices in the center of the building, no access to the adjacent wings from the center of the building, so there are seperate entrances completely on the ends. There are two signs one on each side of the front entrance. On Mrs.Poverman's side there is one on each side of the door, one for her and one for her daughter, a guidence group. In the center of the building there is one little sign 28 with Dr. Blansings name above that. There is an authorized parking sign to the side of the building, which he can take down.
Dr. Paperth purchased the property back in 1973.
Mr. Byrnes told Dr.Paperth he must get an approval from DOT tp see if they have any objection to the sign on the highway.
He was also asked to get a traffic report from Officer Garrity.

A motion for a favorable resolution was made by M. Kazenmayer with the stipulation that the applicant talk to Officer Garrity and also get approval from DOT and to reduce the number of signs on the building, seconded by T.J.Coan, followed by the following vote: "YES" - T.J.Coan, J. Miller, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 15-97 - American Timber Co.-310 First Avenue
Mr. Parzialle excused himself as he lives at 305 First Avenue
The Boards file was marked as A-1 to A-9 by Mr. Byrnes. The color rendering was marked as A-10.
Owner wishes to construct new one family dwelling. R-4Zone
This application was denied for the following reason.
107-27 - Building Height: Proposed building does not comply with Note F. And any other variance the Baord may deem necessary. A-5 Flood Zone - structure must comply. HARDSHIP VARIANCE. This denial is based on information on plans and a proposed plot prepared by Aquatecture Architects. If this

does not accurately depict the property and proposed work, the applicant must accept responsibility.

Mr. Keith Henderson, Attorney with Lautman, Henderson & Wight placed his appearance on the record, as attorney for the applicant. Gregory Cox, Partner in Aquatecture Architects, 571 West Lake Avenue, Bay Head, N. J. and William B. Savalis, General Manager, American Timber Co., Sea Girt, N. J., were sworn in as witnesses.

Mr. Henderson was told by the Tax Clerk, that the address will be assigned the number 310 First Avenue, instead of 309, if a building is built there.

MR. Savalis testified his official capacity is General Manager of American Timber Co.. The share holders holding more than 10% of the shares are Dorothy P. Yard.

Mr. Cox testified he graduated from Pratt Institute, has his architect license in the State of New York, 10 years ago, his license in N. J. 13 years ago. his planners license in N. J. 12 years ago. His credentials have been accepted.
He testified he is familiar with the property in question and is familiar with the previous application of this property.
Mr. Cox testified, previously the applicant went before the Planning Board to sub-divide the property and at that time they were able to create two conforming lots, one on first Avenue the one in question tonight, is a conforming lot 30 ft. wide by 70 ft. deep, 2100 square feet. The Ocean front lot that was created is in excess of the minimum requirement, and was granted variances for a building that would be built on the ocean front lot. The First Ave. lot however, was denied before the Planning Board although the lot was approved and what we have done in listening to their concerns, we have revised the building to what we feel is a significant extent and we are presenting that revised structure here tonight.

Mr. Cox stated the initial sub-division, they were fortunate the original piece of property was 40 ft. wide, we were able to create a flag lot on the ocean front, which gave us a 10 ft. strip of land connecting the ocean front lot to the first Ave. lot., which allowed us to maintain the 40 ft. on the ocean front provide access to the First Ave.street for that ocean front lot which also allowed us to provide off street parking for a minimum of 2 vehicles and would also allow us to create a conforming First Ave. lot that would have conforming set-backs for all side yards. Theoff street parking is contained in a proposed garage within the dwelling unit, and one car on the driveway which connects from the First Ave. to the Ocean front dwelling. There is a four foot wide easement across the Ocean front lot to the First Avenue lot, that would allow the First

Avenue lot owner access to the beach. It is on the South side of the Beach front lot.
Mr. Cox testified the lot is 30 ft. north to south and 70 ft. east to west. It conforms to the front yard set back and it conforms with the rear yard set back, and also the side yard set back. The distance between the property to the north and the proposed north wall dwelling will be 15.1 feet. Mr. Cox testified they are requesting a variance for a dormer, for access to the half story of this building. The reason for the request is that we are allowed by ordiance a dormer on the east or west elevation of no more than 8% of our aggregate roof. We conform to the 8%, but due to the narrowness of the property we prefer to put a dormer on the westerly side which would allow us access to that 1/2 story.

Referring to exhibit A-10, they are proposing the shed type dormer on the south face of the building off the back of the front elevation. They are showing a good sized building a shingled roof. They are providing 2 off street parking spaces, on the first level they have indented the building that will allow us 1 car in the driveway and 1 car in the garage which they are proposing on the north elevation on the first floor, allowing 2 parking spaces, front and back situation. Mr. Cox testified this application is completely different from the previous application. It will not block light or air. It can be granted without detriment to the public good and it promotes the good as testified by Mr. Cox, and will not impair the intent of the zoning plan, if granted. American Timber Co. took title of the property in 1898 which was testified by Mr. Savalis.
The half story will be a bedroom. They are not required to put the house on pilings.
Mr. Burke stated a variance will be needed for the stairs, which will be 6 feet. This property is being developed to be sold.

A motion to close the public hearing was made by M. Kazenmayer, seconded by N.Hood followed by the following vote: "YES"- T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion for a favorable resolution was made by J.VanStolk, with the stipulation that everything conform to the requirements of the Planning Board, seconded by N.Hood, followed by the following vote:"YES"- T.J.Coan, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke. "NO" - J. Miller.

A motion for a 10 minute recess was made at 9:33 p.m. seconded and carried by the following vote: "YES" - T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

The board returned from recess at 9:45 p.m. with the following roll call: M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk,

R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION -17-97 - Lucy McClennen - 566 Whiting Avenue
The Board's file was marked at A-1 to A-9 by Mr. Byrnes.
Owner wishes to construct additions to front and rear and add second floor to existing one-family dwelling. Block 184.03 Lot 11. R-3 Zone.
This application was denied for the following reason. 107-27 - Front Setback - 25 feet required, 14.9 feet proposed to steps. Rear Setback - 20 feet required, 14.8 feet existing and proposed. Maximum Building Coverage - 35 percent maximum allowed, 38.38 percent proposed, 39% existing. And any other variance the Board may deem necessary. A-5 Flood Zone - Building must comply with flood Zone Regulations. HARDSHIP VARIANCE.
This denial is based on plans provided by Richard P. Grasso, Architect, including site plan. If this does not accurately depict the property as of this date, the applicant must accept responsibility.

Keith Henderson placed himself on record as attorney representing the applicant. Richard McClennan, 260 Santuit Rd. Cotuit, Ma., and Paul Lawrence, of Richard P. Grasso & Associates, 171 Main St., Manasquan, were sworn in by Mr. Byrnes.
Mr. Lawrence testified he is a registered Architect in New Jersey. Graduated from Pratt Institute and working in N. J. for 8 years. Accepted as a professional Architect.

Mr. Lawrence testified he is familiar with this project and participated with the preperation of the plans. He testified the existing property is a single family residence and are looking forward to increasing that to a 2½ story structure.
The existing setback is 18.8 feet in the rear existing and the proposed is 14.8ft.. Building coverage existing is 34% and proposed is 38.38 %. Front setback 16.5 ft. existing, proposed 14.9 ft. to steps.
Mr. Lawrence testified the average set back is 15.15 ft. on that side of the street. Area map by Charles O'Malley was marked A-10. Mr. Lawrence testified the existing house is rather small, they are proposing that the 2nd floor be bedrooms, bathrooms and laundry area. The first floor will be strictly living room, dining rooom and kitchen area. There will be no seperate rental unit, no seperate kitchen area. It is a narrow lot 40 ft. and presents a challenge as far as creating a working floor plan.
He testified this proposal will not cause any detriment to the public good, and would not impact on the zoning plan or zoning ordinance. The height will be 32.6 ft. to the upper most portion of roof. Mr. Lawrence testified it was a last minute decision to make it 2½ stories. A new set of plans will have to be submitted.

Mr. Henderson stated new plans will be submitted showing the

elevation, the floor plan of the 1/2 story and will provide you with the flood elevation before the next meeting. There will be no exterior stairs to the second floor.

Mr. McClennan testified there is an enclosed shower on the side of the building, no roof and wood floor. This will make the setback on the side different. One option is to remove the shower or change the variance.

Mr. McClennan testified his wife Lucy is the owner of the house. They are here quite frequently, the house is not rented out.
The reason for the construction is to retire here. It was purchased April 6, 1993 from Theresa Clark. There are 2 parking spaces. At the present time it is a shared driveway, but the removal of some of the structure on the one side will open up the parking a little more. Using the easement and moving the structure, there will be room for 4 cars.
Mr. Henderson stated the applicant waived the time limit.

The Board scheduled a site inspection for Saturday May 31, 1997 at 9:30 A.M..

Mr. Henderson confirmed what the Board has requested, his understanding is the board would like a complete floor plan of the 1/2 story which has no plans at the present time, a flood elevation certificate, extras copies of the O'Malley set back drawing and the revised plans to show the elimination of the shower and replaced in the back, all air conditioning compressors to be shown and kept out of the fire lane areas, and if we require steps to be shown because of the elevation, we will show those and show the new setback and also the height.

A motion to continue this application to June 18, 1997, was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES" - M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

Mr. Byrnes asked Mr. Burke to get an amended denial from Sandy Ratz, as there were some omissions or errors on the original one.

RESOLUTION - 8-97 - Nanette Fickk - 66 So. Farragut Avenue.
The resolution was read by Mr. Byrnes.
A motion to approve the resolution was made by J.VanStolk, seconded by N. Hood, followed by the following vote: "YES" - J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

RESOLUTION - 9-97 - Elaine Diahy - 308 E. Main Street
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by N.Hood, seconded

J.VanStolk, followed by the following vote: "YES" - J.Miller, N.Hood, J.VanStolk,R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

RESOLUTION - 12-97 - David & Ann Spratley - 319 First Avenue
Before reading the resolution, Mr. Byrnes stated one of the requirements was that the applicants through their architect would submit a revised set of plans showing the changes that had been agreed to by them. MR. Byrnes marked a 3 page floor plan with a cover letter from Tom Petersen as A-9A., showing curb cut locations new and existing and reducing the garage height to 12 feet. The Board accepted the revised plans.

The resolution was read by Mr. Byrnes.
A motion to approve the resolution was made by J.VanStolk, seconded by N. Hood, followed by the following vote: "Yes" - N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion to approve the minutes of March 19, 1997 was made by J.Miller, seconded by N.Hood, followed by the following vote: "YES"- T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M. Kazenmayer, E.Lyons, J.Burke.

Mr. Burke stated we have been mandated from a Judge in Freehold that we hold a special meeting and we adjudicate the difference between the neighbors and the Planning Board.

The board voted to go into executive session at 11:00 p.m. to discuss two pending litigation cases with the following vote: M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

The board came out of executive session at 11:30 p.m. with the following roll call: M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenamayer, E.Lyons, J.Burke.

Mr. Burke stated we have had a proposal for a special meeting to hear the case of Kenny v Constantinou, that has been referred to us by Freehold, Docket #L 2322-97. The Attorneys have given us 3 dates June 5, June 17, June 18. One Attorney says he will not be available June 5th, so that date is no good, June 17th, the room here is not available, June 18th is the regular meeting, we have a full schedule and we cannot hear it then.

A motion was made to have Mr. Byrnes contact the attorneys and have them come up with subsequent dates for our approval to hold this meeting by J.VanStolk, seconded by J.Miller, followed by the following vote:"YES"- M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion to adjourn the meeting at 11:33 p.m. was made, seconded and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - MAY 28, 1997 MEETING AGENDA

On Wednesday May 28, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regualr meeting at 7:30 p.m., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 11-97 - Robert & Joanne O'Connor - 556 Whiting

APPLICATION - 14-97 - Robert & Nancy Forman - 597 Briele RD.

APPLICATION - 16-97 - John Macilizio - 80½ Wyckoff Avenue

APPLICATION - 18-97 - Bajodek & Manalio - 147 Second Ave.

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

JOHN L. WINTERSTELLA
Mayor

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - MAY 28, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on May 28, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 p.m.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: M. Parzialle, T. J. Coan, J. Miller, N. Hood, J.VanStolk, M.Kazenmayer, J.Burke. ABSENT: R.Brittle, E.Lyons.

Mr. Burke stated one of our members who was on the board a long timewas elected to the Board of Education. Mr. Byrnes read a resolution honoring Mrs. Walsh.

A motion to approve the resolution was made by J.Miller, seconded by J.VanStolk, followed by the following: "YES" M.Parzialle, T. J.Coan, J.Miller, N. Hood, J. VanStolk, M. Kazenmayer, J.Burke.

APPLICATION - 11-97 - Robert & Joanne O'Connor -556 Whiting
The boards file was marked as A-1 to A-10 by Mr. Byrnes.
Owner sishes to construct second story addition and front porch to existing house. Block 184.03 Lot 14, R-3 Zone.
This application was denied for the following reasons.
107-27 - Front setback - 25 ft. required, 10.3 feet proposed. And any other variance the Board may deem necessary. A-5 Flood Zone - structure complies. HARDSHIP VARIANCE. This denial is based on information on a Site Plan provided by the applicant. If this does not accurately depict the property as of this date, the applicant must accept responsibility.
Robert O'Connor-78 Burnham Rd., Morris Plains, N. J., and Robert Szatmary, 52 Adamston Dr., Brick, N. J., were sworn in by Mr. Byrnes. Robert Szatmary Contracting is the contractor for the applicant.
Mr. Szatmary testified the over hang on the second floor is 2 ft. on each side over the first floor. The front stoop will be 4 ft. wide by 5 ft. long and 2 steps down, which will make the front yard setback 8.3 ft.. Mr. O'Connor requested the application be amended for the front yard set back, to include the stoop and steps.
MR. O'Connor testified it is their hope to make this residence their permanent home. They want to put a second story on the house so they have sufficient bedrooms upstairs and completely renovate downstairs. The house was purchased in 1991. These plans are similiar to the house on the corner of Whiting and Timber. MR. O'Connor testified, right now the house has a living room, kitchen and 3 bed rooms and a bath on the enclosed back porch. The new addition will have 3 bedrooms, and 2 baths. Downstairs will have a 1/2 bathroom, study, living room and

kitchen. The foot print of the house will not be changed, the only change will be the stoop, which is being moved from the center to the side. The back is being extended 4 ft. on the top and bottom. Ducts are being put in, but they are not thinking of putting air in right now. There is room for 4 cars in the driveway. Mr. O'Connor stated there are 8 houses on the street and 6 of them are out further than ours.
Mr. O'Connor testified the structure will increase the neighborhood value, will have no negative effect on air or light to the neighbors. The height of the house will be 32 ft.

A motion to close the public hearing was made by J. VanStolk, seconded by N. Hood, followed by the following vote: "YES" M.Parziale, T.J.Coan, J.Miller, N. Hood, J.VanStolk, M.Kazenmayer, J. Burke.

Mr. O'Connor testified it is better alternative for the fact that we will be permanent residence, taking a more active part in the community and increasing the value of the property.

A motion for a favorable resolution was made by N. Hood, seconded by T.J.Coan, forllowed by the followig vote: "YES"- M.Parziale, T.J.Coan, J.Miller N. Hood, J.VanStolk, M.Kazenmayer, J.Burke.

APPLICATION 14-97 - Robert & Nancy Forman -597 Brielle Rd.
The Board's file was marked as A-1 to A-11.
Owner wishes to construct a second floor addition to rear portion of existing one family dwelling. Block 181 Lot 19, R-4 Zone.
This application was denied for the following reasons.
107-27 - Lot frontage - 30 ft. required, 22 ft. existing. Side setbck (west) 5 ft. required - .3 ft. existing 1.4 ft. proposed. Side setback (east) - 5 ft. required - .7 ft. existing. Lot Coverage - 50% maximum allowed -53.3% existing. Building height (note f) - west side violates setaback and therefore does not comply with this section. A-5 Flood - Addition will comply, and any other variances the Board may deem necessary. HARDSHIP VARIANCE.

Nancy Forman, 599 Brielle Rd. and Robert Forman, 599 Brielle Rd. were sworn in by Mr. Byrnes.
Mr. Forman testified they own right out to First Avenue. He explained they rent this house out to families, not groups and they generally have the same ones each year, and that is their complaints, the bedrooms are too small. He thought it would enhance the property to fix it up. The addition is over the kitchen area. They are not increasing the foot area at all.
On the west side the vertical height to the eve is 20ft. from the ground level. The first floor will have a 7ft.6" ceiling and the second floor will have the same thing and trying to stay within the ridge line it will be another 4 feet.
The dwelling was purchased in 1988 and the land in 1991.

Mr. Burke stated the front of the house is north, the rear is south and the sides are east and west. Building height (note f) is not needed as a variance. Exhibits A-8-land 2 were explained. The upstairs will have one room and a bathroom.
The whole house will be done in vinyl siding, and a new roof will be put on. Mr. Forman testified he will be willing to make the side walls on the house fire rated.

Carol Broderick, 21 Parker Avenue, wanted to know if the whole house had to be fire rated. Mr. Burke said only the 2 sides.

A motion to close the public hearing was made by J.VanStolk, seconded by N.Hood, followed by the following vote: "YES"- M. Pariale, T.J.Coan, J.Miller N.Hood, J.VanStolk, M. Kazenmayer, J.Burke.

Mr. Byrnes stated T.J.Coan raised this point, and since it has been raised, it ia one that has to be addressed. Section 107-35.1. It was read by Mr. Byrnes. Sections c.e.f.g.might apply,so it will have to be added on as a variance. Mr. Byrnes asked Mr. Forman if he would like to amend his application to include the necessary variances from Section 107-35.1. Mr. Forman agreed to do that.

A motion for a favorable resolution was made by J.VanStolk, with the added variances and also deliting the building height (note f) which is not needed and the stipulation of the fire rating on both sides, seconded by M.Kazenmayer, followed by the following vote: "YES" M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, M.Kazenmayer, J.Burke.

A motion was made for a 10 minute recess at 9:15 p.m. was made by M.Kazenmayer, seconded by J.VanStolk followed by the following vote: "YES" - M. Parziale, T.J.Coan, J.Miller, N. Hood, J.VanStolk, M.Kazenmayer, J.Burke

The Board returned from recess at 9:25 p.m. with the following ROLL CALL M.Parziale, T.J.Coan, J. Miller, N.Hood, J.VanStolk, M.Kazenmayer, J.Burke.

APPLICATION - John Micalizio - 80½ Wyckoff Avenue
The Boards file was marked A-1 to A-8 by Mr. Byrnes.
Owner wishes to construct addition to a second dwelling on a lot with two dwellings. R-2 Zone
This application was denied for the following reasons:
107-9 - Two houses on one lot is not a permitted use.
107-27 - Front Setback (front house) 25 ft. required, 8.93 ft. to house (existing)- 6.5 ft. to steps (existing). Side Setback (garage) - 5 ft. required, .41 ft. existing. Side Setback (bungalow) 5 ft. required - 3.76 ft. existing and proposed.
Maximum Building Coverage - 30% maximum allowed - 30.7% proposed

Maximum Lot Coverage - 45% maximum allowed, 46.8% proposed.
107-82.A (4) - A non-conforming use may not be structurally altered without approval of the Board of Adjustment.
107-30 - Principal buildings: Only one principal building shall be permitted on each lot. And any other variance the Board may deem necessary. Not a special Flood Hazard Zone. This denial is based o a survey by Morris and Glasgow, Inc. dated 10/4/96. If this does not accurately depict the property as of this dater, the applicant must accept responsibility. USE VARIANCE.

Roberta Micalizio, 368 Norton Avenue, Staten Island, John Micalizio, 368 Norton Ave., Staten Island were sworn in by Mr. Byrnes. They just moved that is the reason for the different address on the application.

Mrs. Micalizio testified they closed on the house and property November 1996, and the garage on the property was removed before they closed. They have off street parking.
Mrs. Micalizio testified, they want to add a bedroom, there is only room for a table and chairs in the existing building. They would like to be able to put a bed, sofa and chairs in to make it livable. Mr. Micalizio testified the cottage is at least 80 years old. Along the wall is a refrigerator, sink and cabinet area. It is like a studio apartment. What they are planning on is setting up one bedroom,one living area with the kitchen in that area. There is a portable washer and dryer.
Mrs. Micalizio testified they are not adding a bathroom just renovating the one that is there. It has been rented in the past but it is now for them on weekends. The front house is a year round rental-long term.
Mrs. VanStolk is concerned with there being 2 buildings on a lot when there is only suppose to be one. The addidion is going to be 457.1.5 square footage.
Mrs. Micalizio stated when they purchased it they were told it was 2 structures and both rentable. She thought they were buying a legal 2 seperate dwellings on a property. There are 2 water and sewer.
Mr. Coan asked at the time you purchased the property - how many transfer titles did you get? Mrs. Micalizio stated only one - she's not sure. Mr. Coan said if you have two dwellings you should have two. It's from the town, you pay $50.00 for each one and basically the town through that would acknowledge yes that it is a non-conforming structure which they acknowledge.
Mrs. Micalizio said she knows it was acknowledged as she asked is it legally rented is this a legal second dwelling, can it be added on. Mr. Coan would like to see those copies of the transfers, your attorney should have them.
Mr. Coan asked when you purchased it did you understand through your attorney the ramifications of accuring a non-conforming structure? M . Micalizio thought they were buying a legal 2 seperate dwellings. We were told we could rent both of them.

Mr. Coan said the burden of the case is not ours, and I don't want to get into what happened a couple of months ago.

Mr.Burke stated there are certain needs that have to be proven to the Board for them to grant a use variance. Mr. Burke stated if they had an attorney it would be a lot easier. but absolutely not needed.
Mr. Byrnes stated there is nothing in the Use Variance law, that the applicant must go out and get an attorney. He respectfully disagrees that if you had an attorney he would have known to bring all the documents with him that Mr. Coan asked about. Mr. Byrnes stated that in all the years he has sat on the Board has he ever heard a borad member of the present or any former board ask for the transfer of title form, so if an attorney came in and some how anticipated that question being asked, I would take my hat off to him or her, but it is not somthing that has ever been requested for. However the law says that this board has legal representation, and that's me. Now I'm here to advise on issues of law, and there is absolutely nothing to prevent me, the board chairman, or the board member from asking the questions to get the information from the applicants that is needed, and if you have no objections, I would like to proceed along those lines, if after doing that the board feels that the application is incomplete or insufficient, so be it, the board members can make their comments as they do on the record and then it is up to the applicants whether or not they would like to proceed to a final vote tonight. I see no reason why we should not do it that way. We have done it that way in the past and we should not change the proceedure that we used in the past simply to delay an application or cause an application to be delayed.

Mr. Coan disagrees with Mr. Byrnes, it is not our responsibility to mount the case for the applicant. Its the responsibility of the applicant to mount their own case. If we ask no questions, what happens, there's no case, so we sit here, they don't know whata the criteria is, they don't know what questions their suppose to answer. It's not our obligation to ask the questions, to make the proof for them. it's their responsibility to make their own proof. If they don't make the proofs, we can't vote yes on the application. This is what happened the last time, they don't make the proofs, we vote no on the applicantion, they come back with an attorney and say Oh I was wrong, there is a mistake. Well that's not the way it's suppose to work.

Mr. Burke stated sitting here and asking questions of the applicant to get answers that we need to complete a case is making the case for the applicant. I don't think that's true.
There are certain questions in our mind, and even if the applicant sat here and made what they thought was a complete case, we would still have questions. I think Mr.Byrnes is right,

one of the reasons why we're here tonight is because of the back log, and if we continue this case to the June 18, 1997 meeting we are going to have 9 cases and will be here until 2 or 3 in the morning, which is not fair to the other applicants that are going to be here in June. And Mr. Coan if we do ask the questions and try and answer them tonight, and if your not satisfied, you can still vote no. You have the porogitive of voting no.

Mr. Coan stated, Mr. Chairman my other concern is going forward, and if we're here tonight to hear a number of applications because we do have a back log, but as you can see, if applicants come in prepared with information, the application is over quickly, but use variance is a very high burden, and I really don't want to vote unless I have all the information. Part of this problem is not the applicants, part of it is that this Borough does not supply the applicants, as the applicant stated, with any thing explaining what they have to prove to us, unless the applicant sits with a zoning book and goes through it page by page. The applicant doesn't have any way of knowing what they have to prove to us.

Mr. Parziale personally doesn't feel a need for a final transfer, as the town in my eyes recognizes the building as being there, and I think we should move ahead and don't delay it for these folks, we can't keep delaying everything.
M.Kazenmayer thinks that what he meant by the transfer, it does more or less prove the history. It's been there, it's been rented.

Mrs. Micalizio testified there are two tax bills and 2 water and sewer bills.

Mr. Miller stated the Board of Adjustment is here to give relie , we are not here to throw blocks in the way of applicants, and if there are times where we can help the applicant down the road, I think we shoud do it. We have done it in the past and I see no difference in this case.

Mr. Coan stated he disagrees with Mr. Miller. We are here to grant relief, we're not here to give relief. In the Cox 27-71, the Burden of Proof. The burden of proving the right sought in an application, rests upon the applicant. This simply means the applicant has the responsibility to set forth before the board the evidence necessary for it to decide. If the applicant does not do so, the board has no alternative but to deny the application.
Mrs. VanStolk stated she saw the problems related to a month ago, as questions were not asked, the burden of proof was not given and the application was not granted and now we're going to court. I don't know if we should hold up these people or

not, but I think there should be somthing in the application stating what they need, and getting an attorney is up to them.

Mr. Burke stated we have a problem with not just this case, we have a problem with the board. We have a basic problem on use variances that the board has to address ourselves and how we are going to handle use variances otherwise we're going to run into this problem with every applicant that sits in front of us. The basic problem is our internal problem, not this applicant sitting here. They came to us not realizing that we have an internal problem, and I think tonight to get this application done for these people that came in here in good faith, that we should get this application completed tonight, and then we have to address this amongst ourselves and how we are going to handle this in the future.

Mrs. Micalizio testified they will give what ever proof they need, we are organized people, we like to come well prepared, but we can't do that,if we don't know what you want. We don't know the difference between a use variance and hardship, you people do but we don't.

Mr. Coan does not agree with continuing this application.

Mr. Byrnes stated in order to prove your case for the use variance there are certain criteria that must be met, they are referred to as positive criteria and negative criteria.
Negative - there are two. No relief may ever be granted unless it can be done without; A- substantial detriment to the public good and B- without substantially impairing the intent and purpose of the zone plan and zoning ordinance. He stated the question you must answer is - how can your application go through without negatively impacting these things.
Mrs.Macilizio testified, they want to go in the same direction that the town is going, that is why they purchased in Manasquan.
I believe we can show our point in showing pictures of what the house looked like and what it looks like now. There is a 100% improvement. The main house is what we started with and now we want to move to the rear cottage. Photos submitted were marked into exhibition as A- 9 through 21.
Just by the improvement that we made to the main house, proves it is for public good, it's for the look of Manasquan, it's not detriment, it's moving in the direction Manasquan wants.

A-9 Mrs. Micalizio testified is the cottage in question. This is what it looks like, we don't want it to look like this any more.
Mr. Micalizio testified it has been in this bad condition for the last 20 years.
A-21- testified by Mrs. Micalizio is the kitchen in the cottage. It will not look like that. We are putting in pine cabinets,

wood floors, and it will look very charming. A-20 - is an arbor with a fence and doesn't show the climbing roses which were just planted. This is off the side of the main house which will have a slate path lit, leading to the cottage in question.
A-12 is what the main house looked like and doesn't look that way now. A-19 - is a renevated main house, opened up the front porch, redid the porch, the columns were completely rotted out.
Mr. Micalizio testified since we made the improvements, almost every neighbor has come by commented and thanked us for the improvement that we made so far. The rest of the pictures show the renavation we have made in every room of the house except for the kitchen. The kitchen, cabinets were painted. Our intentions are good, let us continue to bring this up to the level Manasquan is moving towards.
They testified it has been rented and C.O'd by the town for the back cottage.

Mr. Coan wanted to know why they can't utilize it the way it is and they wouldn't need any variance. Mrs. Micalizio testified if you were in the space you would see that it's too small.

Mr. & Mrs. Micalizio testified it would not increase traffic on the street if granted. It will not block the flow of air or light to any neighbors, it will increase the value of the neighborhood.

Mr. Coan stated Mr. Byrnes is the attorney for the Board to give us information not the applicant, and he doesn't find this confortable. He is to give us information not to prompt the applicant.

Mr. Burke stated Mr. Byrnes is only going over the positive criteria, he already went over the negative criteria. That's what the board asked him to do, with your objection. Mr. Coan said his objection stands.

Mr. Byrnes had a few more positive criteria to ask. Mrs. Micalizio testified it would be increasing property values and making a nicer enviromment. She testified by renovating the bungalow they are keeping in character with the neighborhood and town.

Mr. Coan stated they probably don't need variances on Lot Coverage or Building Coverage, as the garage isn't there any more.

The board is concerned about them selling the house in ten years or so and the new owners could come in and rent to a group.
Mrs. Micalizio testified that by leaving it the way it is and if it was sold in 10 years, I think the way it is encourages group rentals or renting the way it is.

Mr. Coan said that is a single family zone. MR. Burke said it is a single family zone designated by the town, but in actuality it's not a single family zone, because there are numerous 2 family houses in that area. Mr. Coan said he hasn't heard any proofs to that, should I ask them that, how many 2 family homes are on that street. Do that have that information. Mr. Micalizio testified there are at least 7 two family homes, that he knows of.

M.Kazenmayer asked the applicants how much of a hurry are you in to do this? Would another month make any difference? Mrs. Micalizio answered no. Mrs. Kazenmayer said if we're all finished with our testimony, close the meeting. Mr. Burke said we have to have 5 affirmative votes, not a majority, so at least 5 members have to vote yes, if 4 vote yes and 3 vote no, you can't get a use variance. If you get turned down, the only way you can come back is with an entirely new and different application

Carol Broderick, 21 Parker Avenue came forward and was sworn in by Mr. Byrnes. She said she thinks its terrific you bought a house in Manasquan and unfortunatelly it's not the main house in question, but the problem is the way the town plan is going, we are trying to have one family homes on each piece of property, and we're trying to do away with rentals. Adding a bedroom is only going to add living space, so you are looking at this from the wrong direction. Mrs. Broderick feels the board is misleading the applicant into thinking that if she comes back she will possibly have a better chance of getting an addition on this cottage. I am telling you there is no way that this could ever be granted and if it is I will be shocked. An addition to a cottage should not be allowed in this town.

Mrs.Mucci, 79 Wyckoff Avenue was sworn in by Mr. Byrnes. She tesified it is an honor to have a young couple like this, and what they are doing for our town. I delivered meals on wheels and this house was deplorable, I don't know how the town ever allowed the previous owner to let that old man live in that house, it was a slum. What they are doing to this property is fantistic.

Carol Blum, 96 Wyckoff Avenue was sworn in by Mr. Byrnes.
She lives a few houses down from the property, and agrees with some of the remarks made by the Board, this property should have 10,000 sq. feet and they are 2,208 sq ft. shy of the density, and I don't think needs over crowding. No one has talked about parking. Last weekend 26 cars were parked on that end of the street. The couple that purchased this property said they keep their car in the driveway near the end of the driveway. They testified that this driveway was going to be for 1 car. If they increase this lot 17 x 26 how many leaglly can rent this property, if they were to leave and sell this property

to someone else. Right now it's for one person. By increasing this property down the road, it can be rented for more people. There's a major problem on our street for parking right now and this is not going to enhance it. There are 10 2 multi dwellings and 8 are rear units. By allowing this applicantion to go through and giving approval, you on the board are allowing every owner the other 8 people to enhance their property. I love what your doing - it's great, but I just can't support this because of the long term consequences what will happen.
Mr. Hood asked Mrs. Blum how long ago the house was updated? Mrs. Blum said the electric was up dated about 9 years ago.

Mr. Micilizio said the driveway is 75 ft. long and can park 4 cars.

Mrs. Blum said she cannot understand it, at 9 o'clock the board was going to hear it and vote on the case, and it was the owners choice to move forward on this, now are you saying, lets kick back on this, do your homework, come back and maybe - what's happening? Mr. Burke said what is happening, we are trying to be as fair as possible to an applicant before this board, which is what this board usually does. Mrs. Blum said it is not your job, no it isn't. Mr. Burke said it is and we are going to be, we are going to be as fair as possible to the applicant, and there are many reasons why we are going to do that. We have done it in the past and we're not going to change.

Marilyn Jacobson - 59 McLean Avenue was sworn in by Mr. Byrnes. She testified she lives around the corner from this property and her concern over this is that she is very happy they bought the property, but the issue here is expanding of a non-conforming use, that's where my concern lies. In my neighborhood we have 2 dwellings on one property, we have a garage that has a second story on it, which has since been "you can't do that any more supposedly". It's supppose to be used strictly as storage, it's not being used as storage, as it as it was recently purchased. It's now being used as an office, which I asked the town to go over and check on it, and they haven't gotten bach to me on it. My concern is expanding use, expanding a non-conforming use, their more than doubling the side of the existin structure, that's an expanding use, that possibly down the road should things change they can increase the use on what they plan on using it for, and it can become a group rental.
Please do not grant the expanded structure on this small lot in this small neighborhood. If they need more bedroom space they can live in the front.

Mrs. Micalizio said they will sign it if they put in writing that they are not allowed a group rental, we will sign it, no more than 2 people are allowed in there.

Mr. Burke stated to the Micalizio's that they can ask them to vote right now, knowing you know what you need, or you can ask us to continue the application to next month, or you can withdraw the application. Mrs. Micalizio testified they want to continue next month, so they can be well prepared. Mr. Parziale asked if they would be willing to put a restriction on the deed.

Mr. Byrnes stated a deed restriction would be somthing put on the deed and filed in Monmouth County restricting the use of the cottage in some way, he does not know exactly what restriction Mr. Parziale is leaning towards, but say for example it could never be occupied by nore than 2 persons.

Mr. Micalizio said this would probably decrease the property value if we do that.

Mr.Coan said he would like to see somthing in effect to the property value, as Mr. Micalizio said it would probably decrease.

A motion to continue to the June meeting was made by J.Miller, seconded by M.Kazenmayer, followed by the following vote: "YES" M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, M.Kazenmayer, J.Burke.
The applicants waived their time limit.
For the record M. Parziale was excused at 11:45 p.m..

APPLICATION - 18-97 - Bajadek/Manalio - 147 Second Avenue
The Boards file was marked at A-1 to A-9, by Mr. Byrnes.
Owner ishes to demolish existing dwelling and construct new one family dwelling. R-3 Zone.
This application is denied for the following reason: 107-27 Lot Frontage - 40 feet required, 28 feet existing. Lot Area - 3400 sq. ft. required, 2800 sq. ft. existing. Sideyard Setback- 5 feet required, 3 feet proposed. Sideyard (corner lot) 7 feet required, 5'8" proposed to bay window. Maximum Building Coverage - 35 % maximum allowed, 37.3% proposed. Maximum Lot Coverage - 50% maximum allowed, 66.4% proposed.
107-23.3 - Curb Cuts - Maximum allowed 12 feet, 15 feet proposed. And any other variance the Board may deem necessary. A-5 Flood Zone - Building must comply. This denial is based on a site diagram and plans provided by Robert K. Houseal, architect. If this does not accurately depict the property as of this date, the applicant must accept responsibility. HARDSHIP VARIANCE.
For the record, Mr. Byrnes stated there is no flood elevation certification in the file, at this time, therefore the Board must determine if they require one.
Flood elevation certificate was just handed to Mr. Byrnes, which he marked at exhibit A-9, and requested that all board members receive a copy also one for his files.

Donna Manalio - 15 Club Rd. Fairfield, N. J., Robert Houseal,

Registered and Certified Architect, Professional Planner, Office in Brielle, were sworn in as witnesses, by Mr. Byrnes.
Pictures submitted by Ms. Manalio were marked as exhibits A-10-11-12-13.
Ms. Manalio testified the other applicant is her sister Patricia Bajadek, ownership is 50 50. Ms.Manalio testified she is appearing here tonight with her consent, and she has the authority from her to enter into any type of agreement that may be proposed by the board tonight by way of condition, compromise what have you. Her sister lives in Illinois and is not able to be here tonight.
Ms. Manalio testified photo A-10 which is a tiny little house on a tiny little lot which wasn't always in this location. My father bought this house in November 1954 and was told the house had been turned 180 degrees in the middle of Ridle Way and had to be moved when Ridle Way was cut through. There are 2 bedrooms in this house, and would like to add a little being the family is growing. They were told by builders, that it was impossible to raise the roof on this house, so that is why we are taking it down and starting over. She testified they have mixed feelings about it as their family has been there 40 years and there are a lot of happy memories in this little house, but it's getting very old and need of repairs, so that is why they are taking it down and rebuilding. A-17 a photo from the back. A-12 showing the side of the house which faces Ridle Way.
She testified the house is not heated and the shower is on the back porch, and they would really like to have an indoor bathroom. She testified they had 3 inches of water inside of the house in the 1992 storm.
She testified she and her sister took title in November 1996.
She testified there are 5 children between them and 3 grand-children, and when the other one comes one has to go home, there is no room.
Mr. Houseal testified they are here asking for a hardship variance, and the hardship variance is due to exceptional narrowness and small lot size of this property, and because of that practical difficulties exist. He testified they are requesting the board grant relief variance from this strict little application of several regulations to relieve this hardship. For the record Mr. Houseal read the Denial of Permit into the record. On the maximum lot coverage,66.4% is proposed, and of that 66.4%, 20% is the rear driveway which we are proposing to take. They are also asking to keep the 15 ft. curb cut. He referred to the 2 sheets given to the board, showing site diagrams and zoning notes and information, and architect floor plans, first and second floor and also elevations. Ridle Way is to the north of the property, Second Ave. is the east of the property and Third Ave. public parking is the West. There is a house to the South. Mr. Houseal compared existing plot plan with the proposed plot plan. Single family, one unit, new construction. New construction will secure from fire, from flood

from flood and also secure from wind storms. It will improve the light air and open spaces by making the south side less non-conforming.

It will improve the value of the land. Relief can be granted without substantial detriment to the public good. Benefits will out weigh any detriments that may occur. No impact on other properties. Applicant will amend for additional variance for 2 ft. distance between the property line and riser of front step.

A motion to close the public hearing was made by M.Kazenmayer, seconded by J.VanStolk,and unanimously carried.

A motion for a favorable resolution with the following stipulations; the height will not go higher than 32 feet and the variance changes of removing maximum lot coverage, adding front yard setback of 2 ft. was made by N.Hood, seconded by J.VanStolk, followed by the following vote: "YES"-T.J.Coan, J.Miller, N.Hood, J.VanStolk, M.Kazenmayer, J.Burke.

There being no more business, a motion was made to adjourn, seconded and unanimously carried, at 12:45 P.M.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
Incorporated December 30, 1887
908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - JUNE 18,1997

The Manasquan Zoning Board of Adjustment held their regular meeting on June 18, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meting to order at 7:30 p.m..
He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law.
He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: M. Parzialle, T.J.Coan, J.Miller, N.Hood J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion to approve the minutes of May 21, 1997 was made by J.VanStolk, seconded by M.Kazenmayer, followed by the following vote: "YES"- M. Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion to approve the minutes of May 28, 1997 was made by M. Kazenmayer, seconded by J.VanStolk, followed by the following vote: "YES"- M. Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, M.Kazenmayer, E.Lyons, J.Burke. ABSTAIN - R.Brittle.

J.Miller made a motion not to open any more cases after 11 p.m, seconded by R.Brittle. Mr. Burke did not feel that was a fair time, as we have a very full agenda tonight.
J. Miller amended his motion to 12 p.m, seconded by E.Lyons, followed by the following vote: "YES"- M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 13-97 -Cont. - James Hope - 579 Brielle Rd.
Will not be heard tonight as Mr. Hope is not ready.

APPLICATION - 17-97 - Cont. -Lucy McClennen - 566 Whiting Avenue
Mr. Keith Henderson Attorney for applicant put himself on record.
Paul Lawrence, Architect came forward, and was sworn in at the last meeting.
Sit inspection was conducted. New exhibits marked were A-11 Elevation Certificate, A-12 Area Map of 5/24/97 previously marked as A-10, but was asked that additional properties be provided.
Revised plans to show the 1/2 story and designate the building height was marked A-9A consisting of 3 pages containing an original date of 2/14/97.
Mr. Henderson stated the air conditioner compresors were put at the rear of the property as indicated, the shower will be removed from the side of the property, floor plans of the top floor were provided and also the height. One thing Mr. Henderson did not submit was an amended denial, which Mr. Ratz said there was no reason for an amended denial and he would not give one.

Edward Roeth, 369 First Ave. came forward stating he would like

to see the Board approve this application simply because it's consistent with what's happening in the south end of the beach area.
Tom Pizio 563 Whiting Ave. stated he is directly across from this application, and if everyone builds like this we would be very fortunate.

A motion to close the public hearing was made by E.Lyons, seconded by N.Hood, followed by the following vote: "YES"- J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J. Burke.

A motion to approve this application was made by N.Hood, seconded by E.Lyons, followed by the following vote: "YES"- J. Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 16-97 - Cont. John Macilizio - 80½ Wyckoff Ave.
J. T. Cowan has excused himself from this application.
Mr. Byrnes marked new exhibits as A-1A, amended Denial of permit, Copy of rental certificate of occupancy application 1054 dated 9/19/95 marked as A-21 - Inspection report from the Boro of Manasquan bearing a stamped date of 3/10/87, also an inspection date of 12/12/91, also marked as A-22 a construction permit # 8342 issued April 28, 1987.

At the last meeting a request was made for a transfer of title forms in Manasquan and also for the water & sewer records.
Celeste Miller, attorney is representing the Macilizio's
She has an amended survey by Morris & Glasgow which she would like marked as exhibit A-23, which shows the garage is gone.
Mr. Byrnes said the survey was already marked A-7-A superceeding A-7. Revised floor plans 1 page has been marked as A-8A and basing on council's representation the 4 pages of plans submitted last month will be disregarded. Ms. Miller would like a 1969 photo obtained from the Boro which shows the subject's cottage with enclosed porch windows, she believes they are screened in, which was marked as exhibit A-23 by Mr. Byrnes. A letter dated 6/11/97 from a licensed real estate broker, Susan Careatti, could not be marked as Ms. Careatti was not here to be questioned by the board and it states a professionl opinion so it will not be marked as an exhibit, but will be placed in the file.
Colored copies of photos taken by the applicant, was marked as exhibit A-24.
Mrs. Macalizio testified she revised the floor plans of the proposed renovation. She testified they just want to enclose the porch area and square off the house. They will be squaring off an additional 60 sq. feet, on either side of the porch area. The existing cottage is 313 sq. ft. excluding the porch. The porch at present is 97 sq. feet. She testified they are seeking to enclose the 97 sq. ft. area and an additional 60 sq. Ft.

She testified they would re-side and put a new roof on. They will use the cottage for their own use.
Mrs. Macilizio testified there are about 7 other cottages in the rear on that block, all are bigger than theirs.

Mrs. Wendy Mucci, 79 Wyckoff Ave. came forward and hopes the Board would approve what this couple has done on Wyckoff Ave..
She stated she delivered meals to Mr. McCarthy who lived in that deplorable cottage and she doesn't know how this town would let anyone live in that cottage. We should have people like this couple up on the beachfront, what they are doing for our town, and she hopes they will approve this application.

Carol Blume, 96 Wyckoff Ave. came forward and testified, the last time she was here, she objected to the use, but she is glad to see they scaled it down.

A motion to close the public hearing was made by R.Brittle, seconded by E.Lyons, followed by the following vote: "YES"- J.Miller, N.Hood, J.VanStolk, R.Brittle, M. Kazenmayer, E.Lyons and J.Burke.

Ms. Miller testified in regard to the negative criteria, they have met their burden by removing the garage. With regard to the positive criteria, she would say that a special need does exist, and that is to remove an eye sore and to protect against the erosion of the property values. She would ask that the Board allow the applicant to renovate the cottage.
Board member J.Miller has no problem with it nor does M.Parzialle. M.Kazenmayer's problem is that the zoning ordinance does require the gradual elimination of non-conforming property, and the problem she has with it, is that this is an R-2 Zone that backs up directly to an R-1 Zone, which is our highest zone. She doesn't feel it is beneficial and she feels it should be eliminated, not expanded, not renovated.
N. Hood is not in favor of it, he see's it as an expansion, of a non-conforming use. J.VanStolk agrees with M.Kazenmayer.
Ms. Miller and her clients will take a 5 minute recess to decide what they would like to do.

APPLICATION - 19-97 - Joseph Carlet - 113 Ocean Avenue
Mr. Byrnes marked the Board's file as A-1 to A-8.
Owner wishes to demolish existing dwelling and construct new one family dwelling. R-5 Zone.
This application was denied for the following reasons:
107-27- Front Setback - 10 feet required, 3 feet existing.
Rear Setback - 20 feet required, 19 feet proposed to steps/platform. Side Setback (corner lot) - 7 ft. required, 4 ft. proposed to steps/platform. Building Coverage - 35% maximum allowed, 53% proposed. Lot Coverage - 50% maximum allowed, 53% proposed,
107-36.6 Parking Space Size - 9 x 19 required, 9 x 18 proposed

for second space. The Board will also have to determine if the curved lot line adjacent to Ocean Avenue and Second Avenue with a length of curve of 52.35 ft. is a lot frontage. If it is then a variance will also be required for lot frontage. (107-27) where 40 feet is required.
A- 5 Flood Zone - Structure must comply. And any other variance the Board may deem necessary. HARDSHIP VARIANCE.

Mr. Miller stated he knows Mr. & Mrs. Carlet, and they have been friends for years. Neither lawyer or Board members had any objections to Mr. Miller staying on the case.

Mr. Coan returned for this case, but when the Macilizio's come back from their recess, he will have to leave until they are finished.

Keith Henderson. of Lautman, Henderson & Wight, put himself on record as Attorney for Mr. Carlet. Sworn in as witnesses were - Joseph Carlet, 59 Taylor Avenue, and John Miskinis, 80 Mohegan Rd. Contractor for applicant.
Mr. Henderson, asked the Board to look at exhibit A-7 which contains 2 sheets one is proposed, labeled plot plan and the other is existing. Looking at existing, there is an existing problem, as part of the house is on Boro property. Mr Henderson stated they propose to rebuild this property and pull it back to make it more conforming to the set back requirements.

Mr. Carlet testified he is the present owner of this property. He acquired the property in June 1981. It was rented when he purchased it and has used it as an income property. If it is approved he will live there as his permanent residence.

Mr. Henderson took a time out on this application and the Board went back to Application 16-97. Ms. Miller stated they would be gratefull if the Board would carry them to the next months meeting which will be Thursday July 17, 1997.

A motion was made by J.Miller, seconded by J.VanStolk to carry application 16-97 to our July meeting, followed by the following vote: "Yes" - J. Miller, N.Hood, J.VanStolk, M.Kazenmayer, J.Burke. ABSTAIN - R.Brittle and E.Lyons.

Mr. Henderson returned with application 19-97. There was a question as to which is the front yard. Mr.Ratz considered the front yard as Ocean Ave.. Mr. Henderson stated he believes Second Avenue is front.
Mr. Byrnes quoting from the zoning definitions, "Fronting on a street - A building shall be deemed a front upon a street when the main entrance of the building faces the street. Yard Front - a yard extending across the full width of the lot lying between the front line of the lot and the nearest line of the

principal building". Mr. Henderson stated that is more confusing, as on the existing building it is on Ocean Ave. and the proposed it is on Second Ave.
Mrs. Kazenmayer stated there can't be any front except the short side.
Mr. Burke stated he would consider Ocean Avenue side of the lot as the front. Mr. Byrnes stated you take the measurement from the corner out.
The Board would like to see if the Boro would sell that curve to the applicant. Mr. Henderson said he will make an attempt to find that out.
There are 2 parking spaces, one is 1 ft. short. Mr. Henderson said they could make the garage shorter, that way they wouldn't need a variance for parking.
A motion to continue application 19-97 to the July 17, 1997 meeting was made by J. Miller, seconded by E.Lyons, followed by the following vote: "YES"- J. Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion was made for a 10 minute recess at 9:25 p.m. by J.Miller, seconded by E.Lyons, followed by the following vote:"YES"- N.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

Board returned from recess at 9:35 p.m. with the following roll call: M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.
For the record, at 9:35 p.m. M.Kazenmayer excused herself as she wasn't feeling well.

APPLICATION - 20-97 - Kevin Toomey - 59 Rogers Avenue.
The Board's file was marked as A-1 to A-9 by Mr. Byrnes.
Board Secretary Marie Applegate was on the list to be noticed, but Mr. Byrnes and Mr. Henderson had no objection as she is not a voting member.
Owner wishes to reconstruct existing one family dwelling and construct addition to same. Remove non-conforming garage. R-3 Zone.
This application is denied for the following reasons:
107-27 Lot Frontage - 40 ft. required, 33.01 ft. existing.
Front Setback - 25 ft. required, 16 ft. existing and proposed.
Side Setback - 5 ft. required, 2.8 ft. existing & proposed, 1.5 ft. to chimney. Maximum Height - 2½ stories maximum, 3 stories proposed. Maximum Lot Coverage - 50% maximum allowed, 56% proposed.
107=36.A - Off Street Parking - 2 spaces required.
107-36.C - There is no space on the lot that meets the requirement for the minimum size of a parking space which is 9 ft. by 19 ft.. A-5 Flood Zone - Structure must meet the Flood Code requirements. HARDSHIP VARIANCE. And any other variance the board may deem necessary.

Keith Henderson, Lautman, Henderson & Wight, placed himself on record as representing the applicant. Witnesses sworn in were Kevin Toomey, 10 Church Towers, Hoboken, N. J. and James McKnight, 260 9th St., Hoboken, Architect for the applicant.
Mr. McKnight received his New York State license in 1981, and has a Planners license in N. J. 1985 and Architect license in N. J. 1983, and is running his own business in Hoboken since 1984.
A 3 page set of plans were marked as A-10 and an elevation certificate was marked A-11.
Mr. Henderson stated A-10 plans were filed first for a 3 story dwelling, but after talking to neighbors, Mr. Toomey scaled down the plans which was marked A-9.

Mr. Toomey testified, he is the owner of this property, and it was acquired in January 1997. He testified he has not rented this house and has no intention of renting. His plans are to demolish and rebuild to specifications before the Board. If plans are aproved by the Board he testified he will not be renting in the future. He will occupy himself and his mother and sisters and brothers. He would like to bring it up above flood plane. Due to the flood of 1992, it has to be raised.

Mr. McKnight has been qualified as a professional planner and architect. He testified he is familiar with the property. He said the building as it stands was worthless for renovation. He suggested to Mr. Toomey to eliminate the garage and add that square footage of the garage to come forward so the house could be 22 ft. wide house by 44 ft. wide house. 80% of that house uses the existing foundation. The lot frontage existing is 33.01 ft, and cannot be changed, as it is land locked by 3 other properties. The existing building has a brick chimney, the new house will have a new fire place and it's chimney will be in the same location. He testified the lot is 3,461 sq. ft., the house itself is 968 sq. ft., the front porch and steps are 150 sq. ft. and the back porch is 240 sq. ft., a total of a little over 1300 sq. ft. which is 40 % of the 3,461 sq. ft.. It's the applicants wish to rip up the impervious driveway and replace it with pressed gravel. The present plans call for a 2 story house which is up 5 ft. from the ground. It has a living room in the front, stairway in the middle, kitchen, powder room, laundry area, air condition and heating room in the back. A front porch in front with a gable roof, a deck in back and a shower room in back. The second floor has a master bedroom and it's own bathroom in the back and two smaller bedrooms in the front of the house. The attic will be used for duct work for the air and heat and no living space will be up there.
He testified the variances can be granted without detriment to the public good. He testified the chimney could be brought up through the closet on the inside and have a clear 2ft. 8 on the side, as T.J.Coan has a problem with that side setback.

Two hour rated side wall. Mr. Henderson said they will accept as a condition that the height will be no higher than 30 Ft.

Harold Hoerster, 71 Rogers Avenue was sworn in by Mr. Byrnes. He does not like a gravel driveway, as kids are breaking windows. He is worried about group rentals. He doesn't like all the bedrooms and baths. He also complained about the driveway and parking. He believes this house is going to be a rental.

Ed Rotundi, on behalf of his father Nicholas Rotundi, 61 Rogers Avenue. Mr. Henderson put an objection on the record to that, if Mr. Rotundi was an affected party then he could testify, but he's not an attorney and should not be appearing on behalf of someone else before the board. Mr. Byrnes told Mr. Rotundi he could state his opinion but you can't state your fathers opinion. He will state his opinions and ask his father if he agrees. Ed Rotundi testified the design of the house is perfect, and will like to have it next door as the house now is an eye sore. He is afraid the new structure is going to be the tallest house in the area. He said the driveway is very narrow, and would rather see the black top instead of the gravel. His father Jack Rotundi was sworn in by Mr. Byrnes, and he agreed with everything his son stated.
Kathy Ferreira, 16 Sims Avenue, sworn in by Mr. Byrnes, stated she lives 3 houses down from Rogers, and her problem is if it is a rental. The house in back is a rental and you can't sleep at night. She likes the plans and is glad it is not going to be any higher.

A motion to close the public hearing by N.Hood and seconded by J.VanStolk, followed by the following vote: "YES"- T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J. Burke.

T.J.Coan would like to see a revised site plan showing where the 2 delineated parking spaces would be and show what material would be used for the driveway and where it was going to be used. Mr. Henderson said they would do that.

A motion to approve this application with the stipulation of conditions of elimination of the chimney, not to exceed the 30 ft. height limitation, that the asphalt driveway will be replaced with pavers, and will revise the site plan to show the parking and driveway and show the legal parking spots in the back, was made by J.VanStolk, seconded by T.J.Coan, followed by the following vote: "YES" - T. J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

APPLICATION - 22-97 -John & Roseanne Trischetta - 19 Pershing
Board's file was marked as A-1 to A-9 by Mr. Byrnes.
Owner wishes to construct one story addition to the rear of existing one family dwelling. R-3 Zone.
This application was denied for the following reasons:

107-27 - Front Setback - 25 ft. required, 8.7 ft. existing. Side Setback (right) - 5 ft. required, 3.01 ft. proposed. Lot Frontage - 40 ft. required, 36 ft. existing. Maximum Building Coverage - 35% maximum allowed, 38& proposed. Accessory Structure side setback - 5 ft. required, 3 ft. existing. Accessory Structure rear setback - 5 ft. required, 2 ft. existing. And any other variance the Board may deem necessary. A-5 Flood Zone - addition must comply.

Keith Henderson, Lautman, Henderson & Wight placed himself on record as attorney for applicant.
John Trischetta, 85 Lakewood Rd. Manasquan, Paul Lawrence Architect, Senior associate of Richard Grasso, 171 Main St..
He has been qualified as an expert witness. Second page of plans was marked A-9A. New plans will be submitted.

Mr. Trischetta testified he has lived in Manasquan 25 years. He has owned 19 Pershing Ave. 20 years, and has never lived in the property. It has been used as a rental property and the lease expired April 30th. His plans are to live in the house if it is approved. The property will not be rented again.
The Lakewood Rd. property will be sold, and they will live in the Pershing Ave. house year round. Property purchased in 1977.

Mr. Lawrence testified the existing set back is 8.7 ft. and there will be no change. The right side yard setback is 3.01 existing and will not be changed. The lot is 36 ft. wide and 40 is required. There is no property to be acquired to make the lot frontage conforming as testified by Mr. Lawrence. The structure to the rear is a shed in poor condition. The owner would like to purchase a larger shed approximately 10 x 12 ft. and put it in the same location with the same set back. They will need a variance for a smaller parking space on the side.
The height of the house will match the existing which will be 16 ft. 6 inches. The Building coverage was calculated on the coverage with the samll shed.

Kathy Ferreira, 16 Sims Avenue was sworn in by Mr. Byrnes. She has no problem with what they are trying to do, because they are putting a bedroom on the back. The problem on Pershing is the house that has a sliding door on the back and they come home late, you can hear everything that goes on.

A motion to close the public hearing on this application was made by J.VanStolk, seconded by N.Hood, followed by the following vote: "YES"- M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

Mr. Lawrence testified the walls would be 1 hour fire rated and they would keep the openings to under 5%. It will be resided and reroofed.

A motion for a favorable resolution with stipulations, that the shed will conform,the height of the house will be 16ft. 6 inches, was made by E.Lyons, seconded by J.Miller, followed by the following vote:"YES"-T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

APPLICATION - 21-97 - Doris Kymer - 494 Long Avenue.
Board's file was marked as A-1 to A--8 by Mr. Byrnes.
Owner proposes to construct additions and deck to existing one family dwelling. R-3 Zone.
This application is denied for the following reasons:
107-27 - Front Setback - 25 ft. required, 11.5 ft. proposed.
Side Setaback - 5 ft. required, west -1.67 ft. existing, east-3.69 ft. existing and proposed. Rear Setback - 20 ft. required, 9 ft. to proposed deck. Maximum Building Coverage - 35% maximum allowed, 38.9% proposed. A-5 Floor Zone - structure must comply. And any other variance the Board may deem necessary. HARDSHIP.

Doris Kymer, 36 Area Drive, East Hanover, N. J., Alyson Kymer, 494 Long Avenue, Douglas Kymer, 494 Long Avenue, John Gassner, Gassner Builders, Manasquan and Louis Curcio, Louis Curcio Construction Services, Curtis Ave. Red Bank, N. J..
Doris Kymer testified she is the owner of the property and is here to approve what they are going to do to the property.
Douglas Kymer testified his grand parents bough the property back in 1938 and he has summered here since he was born. Photos presented by Mr. Kymer were marked into evidence as A-11 and A-10 blueprints, A-12 was 5 photos. Mr. Kymer testified he and his wife are planning to purchase the house from his mother and they will be living here year round as permanent residents.
Mr. Curcio after giving his qualifications, was not accepted as a professional as he has no professional licenses at this time. Mr. Byrnes advised the Board not to accept the plans as they are not signed by a license architect. Mr. Curcio cannot testify as an architect. Mr. Gassner testified he did not design this building, he was relying on Mr. Curcio to come down as he played an intricate part of the design.
Mr. Miller stated Mr. Byrnes brings up an excellent point, at this time we should not accept these plans and actually by not accepting these plans we do not have set plans in front of us, we do not have anything in front of us to look at.

A letter from Mr. Curcio was read by Mr. Byrnes. The letter stated that the property was owned by Mr. & Mrs. Douglas Kymer is wrong as the property is owned by Doris Kymer.
Mr. & Mrs. Kymer were not aware that Mr. Curcio was not licensed in the state of New Jersey and we apologize.

A motion to continue this application to Jyly 17, 1997, was made by J.Miller, seconded by R.Brittle, followed by the following vote: "YES"-M.Parzialle, T.J.Coan, J.Miller, N.Hood,

J.VanStolk, R.Brittle, E.Lyons, J.Burke.
Mr. Kymer waived the time limit.

RESOLUTION - 10-97 Dr. Frederic Paperth - 28 Union Avenue
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by J.VanStolk, seconded by R.Brittle, followed by the following vote: "YES" - T.J.Coan, J.Miller, J.Van Stolk, R.Brittle, E.Lyons, J.Burke

RESOLUTION - 15-97 - American Timber Co.- 310 First Avenue
The resolution was read by Mr. Byrnes.
A motion to approve the resolution with a correction on page 1 was made by J. VanStolk, seconded by E.Lyons, followed by the following vote:"YES"- T.J.Coan, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke

RESOLUTION -11-97 - Robert & Joanne O'Connor - 56 Whiting Ave.
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by J. VanStolk, seconded by N.Hood followed by the following vote: "YES" M.Parzialle, T.J.Coan, J. Miller, N.Hood, J.VanStolk, R.Brittle J.Burke.

RESOLUTION - 14-97 - Robert & Nancy Forman - 597 Brielle Rd.
The resolution was read by Mr. Byrnes.
A motion for a favorable resolution was made by J.Miller, seconded by N.Hood followed by the following vote: "YES"- M.Parzialle, T.J.Coan, J. Miller, N.Hood, J.VanStolk, J.Burke.

RESOLUTION - 18-97 - Bajodek & Manalio - 147 Second Avenue
The resolution was read by Mr. Byrnes.
A motion for a favorable resolution was made by T.J.Coan, seconded by N.Hood, followed by the following vote: "YES"- T.J.Coan, J.Miller, N. Hood, J.VanStolk, J.Burke.

Request for a special meeting for an Interpertation Kenny vs Constantinou (Dairy Queen), was decided on July 24, 1997 at 7:00 p.m.

A motion to adjourn the meeting at 12:25 a.m. was made and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

.OUGH HALL, 15 TAYLOR AVENUE
Incorporated December 30, 1887
908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD
MANASQUAN ZONING BOARD OF ADJUSTMENT

THURSDAY JULY 17, 1997 MEETING AGENDA

On Thursday July 17, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquian Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA
FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 13-97 -Cont. James Hope - 79 Second Avenue

APPLICATION - 16-97 -Cont. John Macilizio - 80½ Wyckoff Ave.

APPLICATION - 19-97 -Cont. Joseph Carlet - 113 Ocean Avenue

APPLICATION - 21-97 -Cont. Doris Kymer - 497 Long Avenue

APPLICATION - 23-97 Brian & Cathy Wick - 6 Gardners Lane

APPLICATION - 24-97 Katherine Kolon - 19 McGreevey Drive

APPLICATION - 25-97 Gordon Strout, Jr. - 24 McGreevey Drive

RESOLUTION - 17-97 Lucy McClennen - 566 Whiting Avenue

RESOLUTION - 20-97 Kevin Toomey - 59 Rogers Avenue

RESOLUTION - 22-97 John & Roseanne Trischetta - 19 Pershing

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

908-223-0544
Fax 908-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - JUNE 18,1997 MEETING AGENDA

On Wednesday June 18, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA
FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 13-97 - Cont. James Hope - 79 Second Avenue

APPLICATION - 17-97 - Cont. Lucy McClennen - 566 Whiting Ave.

APPLICATION - 16-97 - Cont. John Macilizio - 80½ Wyckoff Ave.

APPLICATION - 19-97 - Joseph Carlet - 113 Ocean Avenue

APPLICATION - 20-97 - Kevin Toomey - 59 Rogers Avenue

APPLICATION - 22-97 - John & Roseanne Trischetta -19 Pershing

APPLICATION - 21-97 - Doris Kymer - 494 Long Avenue

RESOLUTION - 10-97 - Dr. Frederic Paperth - 28 Union Avenue

RESOLUTION - 15-97 - American Timber Co. - 310 First Avenue

RESOLUTION - 11-97 - Robert & Joanne O'Connor - 56 Whiting

RESOLUTION - 14-97 - Robert & Nancy Forman - 597 Brielle Rd.

RESOLUTION - 18-97 - Bajodek & Manalio - 147 Second Avenue

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

REQUEST SPECIAL MEETING - Constantinou - Interpretation

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE Incorporated December 30, 1887 908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - JULY 17,1997

The Manasquan Zoning Board of Adjustment held their regular meeting on July 17, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: M. Parzialle, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke

A motion to accept the minutes of June 18, 1997 with a correction of Mr. Coan's name on page 2 was made by E. Lyons, seconded by M.Parzialle, followed by the following vote: "YES"- M.Parzialle, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 13-97 - Cont. James Hope - 79 Second Avenue.
Mr. Henderson came forward stating, "Mr. Hope has had this application pending for some time. He is missing a deed which will not let him move forward at this point and time. He also is a contract purchaser on a piece of property from American Timber, which is the front piece of the property which you considered variances at a previous meeting. The Planning Board had previously approved variances on a sub-division on that lot and unfortunately CAFRA appears to have revised it's rules and setbacks and CAFRA is no longer going to permit you to go forward of the original foot print of the building, no matter where it is, regardless of Manasquan set back ordinanaces or any thing else. Mr. Hope want's to live in this house and unforunately this is going to cause a setback. The real request here is that if he could substitute an application for modified variances before the board on the front piece of property that we are talking about for this other application, it would be appreciated if you would consider the request, and put the other one off to some future time". Mr. Hope said he hoped the deed for the case that has been pending would be in for August meeting.
Mr. Burke told Mr. Henderson he would let him know later about scheduling the Beachfront case.

A motion to postpone Application 13-97 to August or until the deed is secured was made by J.Miller, seconded by M.Parzialle, followed by the following vote: "YES"- M.Parzialle, T.J.Coan, J. Miller, N. Hood, J.VanStolk, R.Brittle, M. Kazenmayer, E.Lyons, J.Burke.
Mr. Hope waived the time on his application 13-97

APPLICATION - 16-97 - John Macilizio - 80½ Wyckoff Avenue
Mrs. Macilizio came forward and stated they would like to withdraw their application without prejudice. Mr. Byrnes asked her to submit a letter so we would have it on file.

Mr. Burke stated the Board would like a time limit for opening new cases put at 11:00 p.m. tonight.

APPLICATION - 19-97 - Cont. Joseph Carlet - 113 Ocean Avenue
This case was opened at the June 18th meeting, no site inspection was scheduled, the revised plans were to be submitted. An amended denial by Mr. Ratz dated 7/16/97 was marked at A-2A, 2 page letter from Mr. Henderson dated 6/20/97 to the Boro Attorney was marked as A-9, a 1 page reply from Boro Attorney Mr. Fitzsimmons of 6/23/97 was marked as A-10 and a revised set of plans of 7/11/97 was marked as A-8A. A rendering was marked as A-11, a portion of the tax map was marked as A-12.

Mr. Henderson disagrees with Mr. Ratz's conclusion that the garage is part of the house. He believes it is an accessory structure and he believes that the rear yard set back for that should be 5 feet. Mr. Henderson would like an interpretation from the Board.

Richard Grasso, Architect, 171 Main St. Manasquan, Licensed since 1991. He is qualified as a professional.
Mr. Grasso testifed he revised the plans for this application which were marked A-8A. The changes made were to make it a little more aesthetic along Second Ave. and in front of the house. In doing so they also moved the house further to the south in order to get a greater front yard set-back, making a 7 ft. Second Ave. side yard set back, a 5 ft. west set-back and a 10 ft. front yard set back. The front was measured from the radious that forms the property line. Mr. Grosso testified that it is his belief that the garage is accessory. There will be a 1/2 inch between the garage and house. There will be 19 ft. from the property to the garage entrance, so there will be parking for another vehicle. The existing building coverage is 36% and proposing 53% where 35 is required. The odd shape of the lot was the reason to exceed that lot coverage and the garage is included in that figure. Mr. Grosso has reviewed the site and it will not impair the public good in any way.

Mr. Carlet intends to retire and if this is granted will make this his permanent residence.

Mrs. Broderick, Parker Avenue came forward and asked how many bedrooms and how many parking spaces. There are 3 bedrooms and 4 parking spaces.

A motion to close the public portion of the meeting was made by J. VanStolk seconded by E.Lyons,followed by the following vote: "YES" - J. Miller, N.Hood, J.VanStolk, R.Brittle, M. Kazenmayer, E.Lyons, J.Burke.

There will be no access steps from the second floor deck to the ground. Mr. Coan would like to see some limitations - 30 ft. and 2 stories.

Mr. Henderson stated if the Board wants to restrict us to 30 Ft. we can do that, or we can live with the condition that we can only go up to comply with the flood regulations. Mr. Burke said we are not restricting you, the only thing we want to make sure the house that is built is the house that is on this paper.

A motion by M. Kazenmayer, seconded by J.VanStolk,for a favorable resolution with the following stipulations - Height 30 feet, sidewalks and curb on Second Avenue, subject to review by Borough Engineer, taking into account the rebuilding of the Ocean Avenue bridge in the future - followed by the following vote: "YES" J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 21-97 - Cont. Doris Kymer -497 Long Avenue
Keith Henderson, Lautman, Henderson & Wight, put himself on record as representing the applicant. Mr. Byrnes stated there are additional exhibits - an amended denial of permit dated 7/16/97 marked at A-2A, set of plans from Richard Grosso, 3 pages, 7/11/97 marked as A-9A also an elevation certificate marked A-10.
Rich Grosso, 171 Main St, Architect was sworn in by Mr. Byrnes. Mr. Grosso testified the plans are a new set of plans prepared by him. He testified the applicant has a 1 story, 1 family now. The applicant proposes to put a second floor on the dwelling and expand on the back with a sun porch. Both side yards are in violation. Present front yard set back is 19.71 ft. at the east corner and 18.65 ft. at the west corner. The existing side yard set backs are - west side is 1.67 ft. on the second floor we tried to set the house in to conform to that side yard, That side will conform to set backs. The rear set back existing is 47.79 ft. and porch is projecting 10 ft. out 37.79 ft. becomes its setback and only 20 ft. are required, so there is no variance required. Building coverage original house is 29.6% and the sun porch addition and the little projections outward will increase that to 37.14% which is only 2.14% overage of the 35% allowed. Mr. Ratz's percentage comes from the existing board walk in the rear, the driveway which is concrete, existing deck. Will not impair the public good, or the zone plan.

The Board members were not too happy with the widow's walk or the deck on top. Doris Kymer testified the land and house

were purchased in 1938 and she is the owner.
A motion to close the public portion on this application was made by J.VanStolk, seconded by N.Hood, followed by the following vote: "YES"- J. Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

The Boards concern was with the front yard set back, the widow's walk, the deck on the side being too close to the neighbors yard, otherwise it is a beautiful house.

A motion for a favorable resolution was made by N.Hood seconded by E.Lyons, followed by the following vote: "YES"- J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

A motion for a 10 minute recess at 9:05 p.m. was made by J.Miller, seconded by M.Parzialle, followed by the following vote: "YES"-M.Parzialle, T.J.Coan, J. Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

Board returned from recess at 9:20 p.m. with the following Roll Call: "YES"- M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 23-97 - Brian & Kathy Wick - 6 Gardners Lane
Owner wishes to add a roofed porch to front of house. R-2Zone
Application denied for the following reason:
107-27 - Front Setback - 25 ft. required, 17 ft. proposed, and any other variance the Board may deem necessary. Not a special Flood Hazard Zone. Hardship Variance.

Mr. Byrnes marked the file as A-1 to A-9B. Mr. Byrnes client Mr. & Mrs. Ritchie was listed on the property owners within 200 ft., but the Board had no problem with that.

Katherine Wick - 6 Gardners Lane, Brian Wick - 6 Gardners Lane were sworn in by Mr. Byrnes.
Mr. Wick explained they have a 17 month old baby and they liked the way porches in the neighborhood looked, so they decided to build a porch. He testified it will increase the aesthetics and the value of the neighborhood. The porch will be 17 ft. from the property line. It will be an open porch with a roof. Porch will be 17 ft. from the property line. Steps will be off the side of the proch onto the driveway.

Carol Kregor, 44 Forrest Ave., was sworn in by Mr. Byrnes.
She stated the neighbors put a letter together in support of the Wick's, and she hopes the board will give them the porch.

A motion by J.VanStolk to close the public portion of the meeting seconded by R.Brittle, followed by the following vote:
"YES"-J.Miller, T.J.Coan, J. Miller, N. Hood, J.VanStolk,

R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.
Mr. Coan would like a stipulation that it will never be enclosed with screens or jalousies or windows. Mr. Wick said it would not be a problem. Mr. Hood said his problem is they are changing the set back from what it is now to what they are proposing. For that reason he is not in favor of this application. The rest of the Board was in favor of it.
Mrs. Wick testified the property was purchased in Jan. of 1996 and they are the owners. Mr. Wick testified there will be one electric outlet on the left hand corner at the base and there will be 2 electric lights installed on the interior of the porch.

A motion was made for a favorable resolution with a stipulation that the porch will never be enclosed, by J.VanStolk, seconded by M.Kazenmayer, followed by the following vote: "YES" - J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke. "NO" - N. Hood.

APPLICATION - 24-97 Catherine Kolon - 19 McGreevey Drive.
Boards file was marked as A-1 to A-9, Photos were marked A-9A to A-9N, by Mr. Byrnes.
Owner wishes to construct 36' x 7' wood porch with roof on front of house. R-2 Zone.
This application was denied for the following reason: 107-27 Front Setback - 25 ft. required, 18 ft. proposed. And any other variance the Board may deem necessary. Not a flood zone, Hardship Varicance. This denial is based on a survey prepared by C.W.Glassen prepared in September 1967 and plans prepared by the owner. If this does not accurately depict the property and proposed work, the owner must accept responsibility.

Catherine Kolon, 19 McGreevey Drive, John Kolon, 19 McGreevey Dr. were sworn in by Mr. Byrnes.
Mrs. Kolon testified they purchased the house and land in 1965.
Mrs. Kolon testified they want to construct a porch on the front of their property, 36 x 7 ft.. They will come out a foot and a half more. Of the 15 homes that face on the front of McGreevey Drive, 9 already have porches. She testified it will increase the value and make it more aesthetic. Mrs. Kolon described the photos that were submitted for evidence.

Adeline McGreevey, 19 Muriel Place, testified she favors the porch they want to put on and the Kolons have always taken excellent care of their property and have been good neighbors.

John Donahue, 6 McGreevey Drive was sworn in by Mr. Byrnes.
He testified he is here on behalf of the Kolons, because he is in favor of this application being approved, he feels it would enhance the appearance and value of the property.

Bob Morrisey, 19 James Place, was sworn it and testified he is in favor of the porch, which will make the house look better.

Martha Sarr, 15 Muriel Place, was sworn in and testified she is in favor of the porch and it will enchance the neighborhood.

Gordon Straub, 24 McGreevey Drive, was sworn in and testified he lives directly across from the Kolons and he thinks the porch will serve to update and modernize the look of the house and a very favorable addition.

A motion to close the public portion of the meeting by M.Kazenmayer, seconded by R.Brittle, followed by the following vote: "YES" - J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

The Kolons amemded their application to show they are seeking a setback of not 18 ft. but 16 ft. due to the steps.

Mrs. VanStolk made a motion for a favorable resolution with the stipulation that the porch would never be closed in, seconded by M. Kazenmayer, followed by the following vote: "YES" J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

APPLICATION - 25-97 Gordon Strout, Jr. - 24 McGreevey Drive
The Boards file was marked as A-1 to A-9.
Mr. Lyons recused himself as he is in the 200 ft. noticing.

Owner has constructed a deck (without a permit) at the rear of existing one family dwelling. R-2Zone.
This application is denied for the following reason.
107-27 - Rear Setback - 20 Feet required, 14 ft. proposed.
Building Coverage - 30% maximum allowed, 31.9% proposed. Lot Coverage - 45% maximum allowed, 45.8% proposed. Note: Deck has spaces between boards so it is not Building Coverage or Lot Coverage. And any other variance the Board may deem necessary.
Not a Flood Zone. Hardship Variance.

Gordon Strout, Jr. 24 McGreevey Drive was sworn in by Mr. Byrnes. Mr. Strout testified he purchased the property in 1995 with his wife Barbara. Mr. Strout testified it was a misunderstanding on his part when he bought the property in 1995 and undertook to build my own house. He testified he was pressed for time as he sold his previous house, had to build a little faster, broke ground in July 1995 and received a C.O. in November. Our intent was to build a deck but ran out of money. I asked Sandy if I could put temporary stairs on the back, he gave me permission and we moved in. I didn't realize my permit for the house was closed at the point I was issued a C.O.. The assumption and problem I created for myself was that I wasn't aware that a deck wasn't similar, like to an accessory structure and encroaching on the setback, which totally took me by surprise.
Additional pictures submitted by Mr. Strout were marked as A9T to A9W which were marked into evidence.

Mr. Strout testified he made a mistake and is very sorry and

is sure he will have to pay a fine, but would like the Board's consideration on this application. He testified there would be no hot tub or pool in the back.
Adeline McGreevey, 19 Muriel Place, came forward, stating she is his neighbor and cannot say she could have better neighbors then the Strouts, they are an asset to Manasquan and the deck is beautiful.
Catherine Kolon, 19 McGreevey Drive came forward, stating she lives across the street, and has been on Adeline McGreevey's deck and the Strouts deck is beautiful and is an asset to the neighborhood.
John Kolon, 19 McGreevey Drive came forward, stating Gordon & his wife have a beautiful home and the deck is one of the best constructed decks he has seen.
Bob Morrisey, 19 James Place came forward, who lives 2 doors away, has seen the deck, it is well constructed and is in favor of it.
Bill Walsh,14 James Place stated Bunker & Barbara are the greatest people and a delight to add to the neighborhood. He has no problem with the deck.

Motion to close the public portion of the hearing by R.Brittle, seconded by J. Miller, followed by the following vote: "YES"- T. J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J. Burke

A motion for a favorable resolution with a stipulatin that there be no hot tub or pool was made by M.Kazenmayer, seconded by N.Hood followed by the following vote: "YES" - T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

A motion by J. Miller to refer back to Construction without any recommendation of a fine, seconded by N.Hood, followed by the following vote: "YES" -T.J.Coan, J.Miller, N. Hood, J.VanStolk, J.Burke. "NO" - R.Brittle, M.Kazenmayer.

RESOLUTION - 17-97 - Lucy McClennen -566 Whiting Avenue
Mr. Byrnes read the resolution.
A motion to approve the resolution was made by J.VanStolk, seconded by M.Kazenmayer, followed by the following vote: "YES"- J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

RESOLUTION - 20-97 - Kevin Toomey - 59 Rogers Avenue
The resolution was read by Mr. Byrnes. The Board could not vote on this resolution as the revised plans were not submitted. They will be put on the August agenda, if the revised plans are produced.

RESOLUTION - 22-97 John & Roseanne Trischetta - 19 Pershing
Mr. Byrnes read the resolution.

The revised plans were marked as A-9A which consists of 2 pages. A motion to approve the resolution was made by R.Brittle, seconded by J.VanStolk, followed by the following vote: "YES"- T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, E.Lyons, J.Burke.

After discussion by the Board on special meetings, it was decided not to have any special meetings.

At 11:25 p.m. the Board went into executive session with a request from N. Hood, seconded by E.Lyons, followed by the following vote: "Yes" - M.Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke

The Board came out of executive session at 12:15 a.m. with the following roll call: M.Parzialle, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

There being no more business, a motion to adjourn at 12:20 a.m. was made by J.Miller, seconded by E.Lyons, followed by the following vote: "YES" - M. Parzialle, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, E.Lyons, J.Burke.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

GH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

ADDENDUM TO AGENDA

WEDNESDAY AUGUST 20, 1997

RESOLUTION - 34-97 - Peter Kenny vs Constantinou

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES - JULY 24, 1997

The Manasquan Zoning Board of Adjustment, held a special meeting on July 24, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: M.Parziale, T.J.Coan, J. Miller, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke. ABSENT - N.Hood.

INTERPRETATION - Kenny vs Constantinou (Dairy Queen).

Mr. Burke explained this is a quasijudicial Board, we must go according to rules of law and hold this meeting in accordance with Court rules. We request and demand that the audience give the respect to this Board that they would give to a Judge of law. There will be no talking in the audience, we will have no one calling out any answers to questions or comments made up here. We will go through all the testimony of the 2 parties and after we will ask for comments or questions you might have. You must come up to the microphone and you must be sworn in by Mr. Byrnes. The children must be very quiet, as it is being recorded.

Mr. Byrnes reminded the Board members that this matter is the subject of pending litigation and has already been filed in Superior Court in Monmouth County, therefore you are not to discuss with anyone, any thing out side of this hearing room off the record, that includes if we take a break or if someone meets you outside. There will be no public commentary or discussion.

Mr. Byrnes went through the procedural history of this entire matter, because there has been a lot of letter writing back and forth, articles in the newspaper and obviously there are a lot of discussions between Planning Board meetings as well as before Mayor and Council.

Originally there was an application before the Manasquan Planning Board for a final site plan approval. Hearings were held before the Planning Board September 1, October 6, November 10 and December 1 of 1992. The Planning Board passed Resolution 8-1993 granting preliminary site plan approval on February 2, 1993. There was another hearing before the Planning Board April 6, 1993, followed by the passage of Resolution 11-1993, which granted final site plan approval May 4, 1993. Final Site Plan approval was also granted by the Monmouth County Planning Board, their File #MUSP-5889. A temporty certificate of occupancy for

the building was issued by the Construction Official December 10, 1996. A construction permit and electrical permit were issued for the Dairy Queen portion of the building January 16, 1997 by the Construction Official. On February 18, 1997 a cease and desist order was issued from the Construction Official for the Dairy Queen portion of the building. February 26,1997, Mr. Constantinou the property owner, filled an application with the Planning Board for amended site plan approval. The Planning Board hearing was held on March 4, 1997 and by way of correspondence dated March 10, 1997, the Planning Board Attorney Geoffrey Cramer, advised that it was permissable to lift the cease and desist order. That was done by way of letter from the construction official dated March 26, 1997, in which the cease and desist order was recinded. There was another hearing before the Planning Board April 1, 1997. On April 18, 1997 a notice of appeal was filed by Attorney Richard Wight on behalf of tonight's applicant Mr. Kenny. On April 22, 1997 an amendment to the notice of appeal was filed by Mr. Wight and it was followed by an order to show cause in the Superior Court in Monmouth County Docket # L-2322-97 on April 28, 1997. A hearing in regard to Show Cause was held before the Honorable Lawrence Lawson, Assignment Judge, on April 30, 1997 and a request for an injunction was denied. The Zoning Board of Adjustment at it's regular meeting on May 21, 1997, considered a request for a special meeting to be held on either June 5, June 17, or June 18th., and being they were the only 3 days presented, the Board was unable to grant a special meeting on any of those days. On May 27, 1997 a second amendment to the Notice of Appeal was filed by the Attorney for Mr. Kenny. The Board of Adjustment at it's regular meeting on June 18, 1997 considered another request for a special meeting and granted the meeting for this evening July 24, 1997 at 7:00 p.m.. No new date has yet been set by the laws of status conference.
The order of Judge Lawson is dated April 30, 1997, and in relevant part it denies a request that James Constantinou and Michael Constantinou be temporarily enjoined for further developing or using any portion of the subject property as a Dairy Queen restaurant. It was also a request for additional order to show cause under the verified complaint that was denied.

The application has been made by Mr. Kenny seeking 2 items. No. 1 - Appeal the lifting by the construction official of a stop order which had been validly and for good cause imposed by the said construction official and Michael and James Constantinou the developers, the owners of property known as Lot 2.01 Block 31. The said stop order was imposed by construction official and developers around February 18, 1997 in connection with their construction and development of subject premises to the end of preventing commercial operation of a Dairy Queen restaurant and a dry cleaning establishment without further approval issued by the municipality. Stop order was

that development was not permitted by resolution granting preliminary site plan approval. Said stop order was improperly removed by construction official on March 26, 1997 by letter to developers without the requirement of either abatement violation by which the stop order was issued or appeal the imposition of the stop order by the developer under provisions of NJSA 40:55B-72A. # 2 - Mr. Kenny seeks an interpretation of the zoning ordinance of the Borough under section 55D70B, applicant seeks the interpretation of the term fast service restaurant as that term is defined under section 107-3 zoning ordinance including the operation of a dairy queen restaurant currently operating on the subject premises for which a use variance or a conditional use variance would be required of the developer prior to the development and operation of such a use.

The Planning Board made as findings of fact certain things. Mr. Byrnes instructed the Board members they are bound by those findings of facts which he read into the record. Those findings of fact were never appealed, they were never challanged in a court of law, they were never over turned by a judge and therefore what the Planning Board found based on testimony that they heard in 1992 and 1993, is still a finding of fact and this Board is bound by it.

Mr. Byrnes read into record the 20 factual findings from Resolution 8-1993. (copy attached).

Mr. Byrnes read into record the 11 factual findings from Resolution 11-1993. (copy attached). Mr. Byrnes stated those are all factual findings that the Planning Board made based upon the testimony they heard and exhibits they reviewed, when this matter was before them. Again those facts were never challanged, never overturned by any court and this board is bound by them.

The Juristiction issue - does this board have juristiction to hear this case? NJSA 40:55D-70A - The Board of Adjustment has power to hear and decide appeals where it's alleged by the appellant (Mr. Kenny) that there is error in any border requirement, decision, or refusal made by an administrative officer based on or made in the forcement of the zoning ordinance. NJSA 40:55D-70B - The Board also has the power to hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such borad is authorized to pass by any zoning or official map ordinanace. NJSA 40:55D-72A - An appeal from the administrative officers determination must be taken within 20 days of that determination. This requirement is juristictional in nature.
Mr. Ratz's letter which is subject to the appeal is dated

3/26/97. Mr. Kenny's initial notice of appeal was filed on 4/18/97. The courts have stated that the 20 days does not necessarily commence upon the issuance of the letter, but when the applicant knew or reasonably should have been aware of what was going on. Mr. Byrnes said before we get into a lot of other issues we should hear testimony on that point, to determine whether or not this board even has juristiction.

Mr. Wight said the 20 days that the statue is read doesn't say when it starts, doesn't say from the date that the order was given. He believes it is 20 days from the date the applicant knew or reasonably should have known of the action taken. The action of appeal is from the 3/26/97 letter of Mr. RAtz.

Richard Wight, Lautman, Henderson & Wight, Attorney for the applicant was sworn in by Mr. Byrnes. Peter Kenny, 38 N. Main St. was sworn in by Mr. Byrnes.
Mr.Kenny testified his house is located one house in off Atlantic Ave. on the right, set way in the back. Mr. Kenny testified he is a comptroller for a Mortgage Banking Co.. He has resided at his present address since Feb. 29, 1996. He stated he received a phone call at work on April 1, that a neighbor had dropped off a flyer in his door stating there was a problem with a resolution on a shopping center across the street and that neighbors should show up at the planning board meeting that night, which I did. He testified he learned that night, that there was a proposal to put a Dairy Queen Restaurant in that shopping center, which was contray to what the resolution said.
When Mr. Kenny arrived at the meeting he met some neighbors for the first time and they told him there was a stop work order issued on the Dairy Queen and that unceremoniously lifted without comment given to one particular neighbor. Kenny testified April 1st was the first day he knew about the action taken by Mr. Ratz. He testified he filed the appeal on April 18th.

Ted Costa attorney for the Constantinou's came up and put himself on record. He asked Mr. Kenny if he read the papers the week before, there being reference that the Dairy Queen was coming in. Mr. Kenny testified he can't recall. He testified he didn't know and couldn't care about the development until the flyer was put in his door.

Mr. Wight stated what Mr. Kenny is appealing from is not the construction permit which he had no idea about, but he is appealing the recison of the cease and desist order of the March 26th letter.

Mr. Costa in addressing the Board said Mr. Kenny's 20 day appeal period realy expired 20 days after the time that the initial permit for a Diary Queen was issued back in January 1997.
Mr. Costa said moving on now to the acutual lifting of the cease

and desist order in late March by the building inspector, in which he doesn't have the article from the paper, but a board member on the record stated that he did read about it in the newspaper, but Mr. Kenny testified he did not read any thing in the paper, which means he wasn't paying attention until someone actually knocked on his door the day of the meeting.
Mr. Costa suggested that such conduct explains a lack of due diligence in finding out what is going on and should be held against him in regards to the 20 day period, since he did miss the 20 day period by a few days.
Mr. Byrnes stated there were 2 articles in the news paper. They were attached to the original order to show cause as exhibits 2A and 2B. 2B has hand written on it April 3rd. and 2A does not have a date. Diane Churchman was the author on 2A and 2B was Hether Bradley.

Joanne Schrable, managing editor of the Coast Star in Manasquan, was sworn in by Mr. Byrnes. She could not help the Board on the dates of publication at this time. She testified if she were in her office she could help.
Mr. Wight stated Mr. Kenny is not appealing the stop work order, he was happy to have the stop work order, what he's appealing is the removal of the stop work order, which did take place March 26th.

A motion was made by T.J.Coan, seconded by M.Kazenmayer, determining that the appeal made by Mr. Kenny was timely, followed by the following vote: "YES" - M.Parzialle, T.J.Coan, J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

Application - 34-97 - Peter Kenny vs Constantinou
The Boards file was marked by Mr. Byrnes for identification purposes as A-1A Planning Board Resolution 11-1993, A-1B- Planning Board Resolution 8-1993, A-2 - Consisting of 3 pages are the building permits and plans of the Dairy Queen, A-2A- permit application dated 1/16/97, A2B- the permit up date, also of the same date, A2C- the set of plans from Mr. Ratz, consisting of 7 pages, Title Sheet Dairy Queen / Limited
Lot North Main St. & Atlantic Avenue, owner Jim Constantinou from Meadows Design Service, Inc. dated 12/30/96. A-3A- letter from Construction Official Ratz, dated 2/18/97 to Michael and James Constintinou, A-3B- letter from Construction Official Ratz, also dated 2/18/97 to Dry Cleaning Specialists Inc..
A-4 -for identification is a transcript of hearing, Application of Michael & James Constintinou, Manasquan Planning Board March 4, 1997. A-5- Correspondence consisting of 1 page from Construction Official Ratz dated 3/26/97 to Michael & James Constintinou. A-6- transcript of hearing application of Michael & James Constintinou dated 4/1/97 of Manasquan Planning Board.
A-7- the notice of appeal variance application form from Mr. Wight Attorney for the applicant, dated 5/27.97 with the attachments of 11 pages.

Mr. Byrnes reminded the Board of 2 things. # 2 the Interpretation of the term Fast Service Restaurant as that term is defined under Section 107-3 of the Zoning Ordinances, as including the operation of the Dairy Queen restaurant currently operated on the subject premises. # 1, whether or not the lifting by the Construction Official of a stop order which had been previously issued by him was an error and what was the error. These are the only two issues here tonight. Any testimony outside of those 2 issues will not be allowed.

A motion by J.Miller seconded by J.VanStolk, for a 10 minute recess was made and followed by the following vote: "YES"- M. Parzialle, T. J.Coan, J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

The Board returned from recess at 9:00 p.m. with the following Roll Call: M. Parzialle, T.J.Coan, J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

Mr. Wight made reference to Resolution 8-93 having to do with parking. One served to reduce the required parking size from 10x20 to 9x19, thereby allowing the applicant to get more spaces than they would have ordinarilly gotten. They also were given a variance from the number of spaces, total required 23, and the applicant has 18. Paragraph 9 refers to heavy use of this intersection. Paragraph 11 talks about a low traffic type of business, reference to real estate office, or accounting office. Paragraph 12 there is a reference to the recommendation of the planner, that because of the highly trafficked nature of the subject corner, the future usage of the subject center as and for a restaurant, cafe or any medical office should be strictly curtailed. Paragraph 17, the board thought that it could be developed as a neighborhood service center with an emphasis on retail and service activities. Mr. Wight stated all those factual findings are not in there for nothing. Mr. Wight said the only condition that we really are concerned about tonight, is No 6 on page 7 of the resolution. It reads "no portion of the premises shall be utilized as or for a medical office, cafe or restaurant. There shall be no counter or table service provided in the convenience store proposed for the subject site. Each of the aforementioned restrictions shall be placed on the final site plan to be reviewed by the Board". Those restrictions were as to permitted uses in the Zone. It is a B-1 zone, now and back in 1993. This # 6 was very important to the town, also to the neighbors who were there objecting.
Mr. Wight stated at some point early in Feb. 1997, Mr. Ratz sent out two letters, which advised the Constantinou's that they had to cease and desist development of the subject property as a Dairy Queen and even as a Dry Cleaning establishment.
Mr. Ratz stated in those letters that the applicant should return to the Planning Board for an amended site-plan. This is a stop

work order, the Constantinou's had a number of options at that point, one of which was to appeal that order. They could have come to the Board under B for an Interpretation, depending upon what the reason was for the cease and desist order. They chose to go to the Planning Board. Mr. Wight made reference to Mr. Szymanski's comments in the transcripts.

Mr. Wight said there is no definition in the Codes of Manasquan. for a restaurant. However if you look under the definition of a Fast Service Restaurant, you will find what we believe to be the definition which perfectly fits this operation.
A fast service restaurant back in 1993 was a conditional use in that zone. It can't be located closer than 500 ft. to any public school or 150 ft. from the boundry line of a residential zone. Mr. Wight stated this isn't 150 ft. from the boundry line it is on the boundry line. We're not here tonight to tell the Constantinou's they can't operate a Dairy Queen, but we're here to sugguest to them or the Board, that they have to apply for it before the proper Board. If it's a fast service restaurant, it would be a use variance, which is not permitted in this zone. They would have to go before the Board of Adjustment and apply for a use variance. If it's simply a restaurant as referred to in the resolution then they would have to go back to the Planning Board and amend the Planning Board resolution to permit this type of restaurant.

Albert P. Ratz, Jr., Construction and Zoning Officer for the Borough of Manasquan, was sworn in by Mr. Byrnes.
Mr. Wight asked Mr. Ratz if he has building permits from 1997 in his file. Mr. Ratz testified the permit from January 16.1997 that Mr. Wight has is his from his file. Exhibit A2B is also his, also several construction plans Mr. Ratz testified, the Dairy Queen is approximately 1700 ft.. Mr. Ratz testified they are serving ice cream, soda. He does not have any knowledge as to hot dogs being served. Mr. Ratz testified the February 18, 1997 letter did come from his office, concerning the Dairy Queen.
Mr. Ratz recommended that they would have to go back to the board for an amended site plan approval. Mr. Ratz testified he had no discussion with the Zoning Officer when he wrote the letter. Mr. Ratz testified, when he was getting ready to issue permits for the Dry Cleaners, he asked Vito Marinaccio to review the resolution to see if the dry cleaner was permitted under that resolution. At the same time, Mr. Ratz was reviewing the ordinance and came upon the low traffic businesses and questioned whether the dairy queen was a low traffic business.
Mr. Ratz testified the demolition permit of the old structure was April 9, 1996, the construction permit for the building shell and the deli was June 26, 1996. Mr. Ratz testified, under the Uniformed Construction Code, the Dairy Queen and Deli cannot be restaurants, as there are no public bathrooms.
Mr. Ratz testified he is familiar with the zoning ordinance

and the definition of a fast food restaurant.

Alex Dalgarno, 104 Atlantic Avenue, Manasquan, N. J. was sworn in by Mr. Byrnes as a witness.
He testified he has lived at this address approximately 25 years. He is an auto technician, and a resident of Manasquan 30 years. He attended 7 previous meetings on this project. He followed the development in the news papers and also saved some of the articles. The exhibits were not marked, as news papers cannot be questioned or cross examined. The neighborhodd is primarily residential. He testified there was only to be low traffic stores. At the March meeting, Mr. Delgarno was told it was an informal hearing, and the public was not allowed to be heard.
He testified he attended a meeting on April 1, he was told by Mr. Cramer, there wasn't any thing he could do about it, as it was all set to go. He took his family there and had ice cream and hot dogs. He testified he feels that the area was not handled for this kind of traffic, stating you can sit out there watching people trying to turn in, as there is so much conjestion. Mr. Byrnes stopped Mr. Delgarno, as traffic is not the issue. There will not be any testimony on traffic.

Mr. Costa asked Mr. Delgarno if he objected to the Dairy Queen being there. Mr. Delgarno said he does object.
Mr. Delgarno testified he is slightly diagonal west on the opposite side of the street from the store.

Mr. Kenny came forward and stated he and his family went to the Dairy Queen for a hot dog. He submitted some photos, which were taken by Sally Walker, 37 N. Main St.,who was sworn in by Mr. Byrnes. She testified she lives directly across from the Dairy Queen. She testified photo A8A is a photo taken on 7/13/97 which shows a lot of activity at the site, and people consuming food. A8B- taken on 5/3/97, which shows a large truck in the shopping center, before site was open. This was not entered into submission tonight. A8E taken from her kitchen.

Mr. Costa in questioning Mrs. Walker stated the only reason she bought the picture in was to show people eating in front.
She testified yes.

Mr. Wight called John Maczuga,304 Hawthorne Ave. Pt. Pleasant Beach. He is a Principal and Director of Planning for Bay Point Engineers. He has a Masters degree from Rutgers University, and is a licensed planner in the State of N. J. since 1976, He has testified before this Board before.
He testified he has had an opportunity to visit the site in question and has reviewed the preliminery and final site plan in this matter. He testified he heard the facts and findings that have been read into record and will not challenge them.
Mr. Maczuga read from the resolution # 8-1993, which was the resolution granting preliminary site plan approval. There were

2 variances requested, the first of which was for a deviation from the ordinance requirement, for parking stall sizes from 10x20, ordinance required 9x19, which was approved by the Board. Additionally they requested a reduction in the required parking from 23 spaces which were determined by the Board to be required down to 18 which were proposed on the subject property.
The 23 spaces required was based upon the 1993 parking requirements that were in effect for retail uses. He testified the zoning ordinance does not define a restaurant or cafe.
He testified the Dairy Queen is a form of restaurant. He based his opinion on what the dictionary said it was a public eating place, but the zoing prospective a restaurant is an establishment for the use of preparation and service of food, either for the consumption on premises or take out. He testified his opinion is a fast food service restaurant. Back in 1993 a fast service and drive in restaurants were permitted conditional uses in the B-1Zone. The conditions are contained in sections 107-43. The number of parking spaces required are 1 space for every two seats, 1 space for every 2 employees, 1 space for every 3 take out service patrons estimated for peak hour periods. There are no seats at the Dairy Queen, and employees are to park off site. Based upon the 1720 sq. ft. of the facility, the trip in and trip out would be 218 trips for peak hour periods and would require 36 parking spaces.

Mr. Costa asked Mr. Maczuga if he watched the place at night to see how busy it was. Mr. Maczuga said he was there today at 12:30 in a down pour and 12 of the 18 spaces were occupied and and no one was in the Dairy Queen. Mr. Costa questioned him on parking spaces.
T.J.Coan asked Mr. Maczuga if he had the breakdown for the parking that would be required for the convenience store. Mr.Maczuag stated under the Boro's code, the convenience store would in fact fall under the catagory of retail service space which would be 1 for 300 sq. ft., which would be 11 or 12 paces. The dry cleaners would be 6 spaces for 300 sq. ft. The dairy queen under the boro's standards has a much higher requirement for parking, which he previously explained. MR. Maczuga said the standards for parking in Manasquan relating to these types of uses are very light.

Mr. Byrnes asked Mr. Maczuga if he reviewed any of the testimony of the Planning Board's Planner. Mr. Maczuga said he did not review any testimony from the planner and did not review the testimony from the traffic engineer or the traffic officer.
Mr. Byrnes stated you referred to good planning practice a few times and Mr. Wight for the applicant stated in his opening remarks that his client doesn't object to the presence of the Dairy Queen, but if they need a use variance, they should get one and if they need to go before the Planning Board, they should do that, so what good planning practice can they do to get 36

parking spaces on that spot. Mr.Maczuga stated at this point they cannot. Mr. Byrnes asked what would be good planning practice for them to follow at this point? Mr. Maczuga stated in his testimony that there was any indications that this was the type of use that was going to be at this location. Mr. Byrnes asked, on this date what good planning practice could they use to solve this problem. Mr. Maczuga said noting, not to put a dairy queen there, find another use. Mr. Byrnes said so it is your recommendation that the Dairy Queen should be removed. Mr. Maczuga testified in his opinion there is not given the uses on that site, the square footage on that building, there is too much on that site to have a Dairy Queen there.
Mr. Byrnes said then in your opinion the dairy queen should be removed. He answered yes. Mr. Byrnes said but your client doesn't want that.

Mr. Wight said he did not say his client Mr. Kenny did not want the dairy queen there, they are here to acquire that they properly apply for that type of use if they are going to have it.

Mr. Costa asked Mr. Maczuga since you dont have any objections to real estate offices, can you estimate for us all, about how many people are possible to be in two real estate closings simultaneously. He said he wouldn't know, it depends upon who is buying and who is selling. Mr.Costa said if I told you some commercial deals you get maybe 10 people on a table for each deal, 20 people maybe 20 cars, would that surprise you, plus secretaries. Mr. Maczuga answered yes. Mr. Wight objected.

A motion was made, seconded and unanimously carried for a "short" five minute recess. The meeting reconvened at 11:40 p.m. (roll call)

After brief discussion, Mr. Burke asked Mr. Costa about the scope of his projected presentation. He then asked how members of the audience had questions which they would be addressing during the public commentary. Mr. Burke then asked, based on what they had just heard, whether they wished to continue the hearing at that time. The Board agreed to continue.

Mr. Costa continued his presentation, having Michael Constantinou, co-owner of the property, sworn in to offer testimony. Mr. Constantinou, at Mr. Costa's questioning, offered testimony about the prior Planning Board application on the property, including information on the number of hearings and the relief granted (variances and site plan). He states questions were asked about the proposed operations located on the property, noting that the Board received information about the types of retail activity that would be going on at the delicatessin, including the sale of hot and cold sandwiches, grocery items, frutis, vegetables, milk. There would not be a restaurant

establishment with a "sit down" food service, he stated.
The character of the area was noted. There is a bike path along side of the gas station and a lot of people park in the bike path and come in the store. They don't need cars. In March 1996, Mr. Constantinou thought of a pizza, but figured that was a restaurant and then an optomitris was going to take it, but he is a doctor, which was not allowed. In reliance upon the approval for a dairy queen, he and his brother spent $150,000.00 which is their life savings. In March 1997, when we found out there was somthing wrong with the permit, we had already purchased all the equipment and signed all deposits, with a $15,000.00 deposit. We went back to the board for an informal meeting to find out if it was a restaurant. Most of the members present, remembered the discussion in 1993. the Mayor was there and they thought it was so ridiculous, that they really didn't want to hear it. If Mr. Cramer was at this meeting they probably would have made a decision, (March 4th).
The dry cleaners closes at 7 p.m. so there are only 2 stores, the convenience store and myself the dairy queen open after 7 p.m. The hours of the dairy queen is from 11 a.m. to 11 p.m..

Mr. Constantinou stated he thought it was understood that the dairy queen was not a restaurant, so I relied on that. I have been in the restaurant business for 20 years. We don't have any table service, public rest rooms.
Mr. W ight stated the suggestions given were by yourself. Mr. Constantinou said he gave those suggestions, as he is an accountant and his brother is in real estate. That is the only reason I gave those examples. When I went to the March meeting I wanted to get it resolved, I'm loosing money every day. When they gave a cease and decease order, I can't operate my business and I'm going to go bankrupt. Mr. Constantinou stated he owns the franchise. I can't sell as we are only allowed in a certain area. Mr. Constantinou testified when he got the work stop order, he seeked counsel.

The meeting was opened to the public for comment.
Susan Caulkin,102 Atlantic Avenue was sworn in by Mr. Byrnes.
Mr. Byrnes stated about 8 months ago he did represent Mrs. Caulin in a land matter in Wall, but has had bi representation with her or her family since, and feels it is not a conflict of interest. Mr. Miller stated he knows Mrs. Caulkin, has done work with her, but has no dealings with her at present.
Mrs. Caulin asked Mr. Constantinou if he know Monmouth County has a business directory and also utilizes listing of businesses.Mr. Constantinou said he didn't know that. She listed under their code D, which is a eating and drinking establishment, fast food restaurant, they listed Dairy Queen. She stated most of the patrons are children who come on bikes, and they eat outside. It has impaired the neighborhood because of the high volume of visitations to that area and has become a hangout. Mr. Costa, said to Mrs. Caulkin that the 2 dairy queens she

sited, are full service with bathrooms. She said yes.
Charles Plunges, 36 N. Main St. was sworn in by Mr. Byrnes. He lives across the mini market. He stated he didn't make all the meetings, but most of them and he feels that the proposal was made by the Constantinou's that they would put up the convenience store and 2 other businesses that were to be very low traffic. I fell that if they said we were going to have a convenience type and another food store, I know I would have protested. He told Mr. Costa he would like to see the dairy queen leave, not because if it was only a dairy queen fine, but if it was only a convenience store fine, but there is too much on the lot.

Mr. Delgarno returned and complained about the parking. He stated no employees were to park there, and he has made repeated complaints. Mr. Burke said if he has any complaints like that, he should go to the Code Department.

Mr. James Constantinou, 105 Turnbrook Drive, Bricktown was sworn in by Mr. Byrnes. He said if the parking lot was so full, why didn't the people park in the municipal lot. I work every day all day and there are at least 10 parking spaces empty every day.. I wish it were full. On a Saturday nite the parking lot will be full. He stated he has a white pontiac and his brother has a van.

A motion to close the public hearing was made by J.VanStolk, seconded by J.Miller, followed by the following vote: M.Parziale, T.J.Coan, J.Miller, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

Mr. Wight moved that all the items that you have presently marked as identification be admitted as evidence. No objection from Mr. Costa. Mr. Burke said the only thing he would not like marked are the two pictures, one of the tractor trailer and the one of the traffic in the intersection A-B&AC. Being marked into evidence will be A1-2-3-4-5-6-7 and two photos A8a and A8d without objection.

Mr. White stated Mr. Cramer said the permits been issued, can't do anything now. Mr. White said the statues he pointed out at the beginning of the meeting, 40-55D, 72A speaks in terms of an appeal by an interested party, basically the board has the power to hear appeals by interested parties to rule upon whether or not an action by an administrative officer is appropriate.
If Mr. Kenny was appealing Mr. Ratz's order then there would be no point to allowing the appeal, because he begraded any interesting party would begraded by the same argument. He read from a case of 1979. We are asking that the cease and desist order which was issued by Mr. Ratz on February 18, 1997 was correct. There was no opportunity for a public hearing, as Mr. Delgarno tried to speak but couldn't do it. By the time

they got to the April 1st meeting it was too late. The Planning Board ended up delegating it's responsibility to the Attorney. which is not proper. There was no appeal by the Constantinou's. Mr. Ratz's action wasn't appropriate, so we are asking that the cease and desist order be reinstated. This is a fast service restaurant.
Mr. Burke asked Mr. Wight, you are asking us to make a determination that the original stop work order was correct and should have stayed in place. If we tonight, make that determination that the stop order should have stayed in place, then you are asking the Dairy Queen to close tomorrow morning.
I am expecting Mr. Costa to appeal that. And the second part is - is this a restaurant and is this a fast food restaurant, and either one would keep the Dairy queen from being on that property. If we determine it is neither one, then we are done with that part. If we determine it is a restaurant, then the application would have to go back to the Planning Board and ask for an amended site plan. If we determine it is a fast food restaurant, then the applicant would have to apply to the Board of Adjustment for a Use Variance.

"Mr. Costa stated this approval realy started in 1993, when we got our site plan approval before the Planning Board. That's when the Planning Board approved the convenience store, which also sold packaged food which according to the objectors definitions will qualify as a restaurant, it also should need a use variance. It would be wrong for us to say what the Planning Board did in 1993 was in error, because that would be like saying the convenience store has food and the dairy queen is an error, maybe we should stop the whole mall.
This does not meet the requirements of being a restaurant, as there are no bathrooms. As far as parking, there are a hundred spaces across the street in the municipal lot. I don't think that is a realistic objection in this proceeding at all.
The whole matter is Mr. Kenny claims the town screwed up and there fore the Constantinous should loose their shirt. That's the whole argument. The Constantinous should loose their shirt, their over One Hundred Thousand investment. The Constintinou brothers relied upon the townships presentations, they have a right to do that, they are good law abiding citizens, going through the right channels. They received building permits, they received go aheads for dairy queen after presenting blue prints and plans with the dairy queen all over them, they received approval, they made committments, they paid their franchise fees, they made contracts, they paid for equipment, and then all of a sudden the township almost pulled the roof from under them, until we had a legal interpretation finaly made by the Planning Board Attorney, that this dairy queen is not a restaurant. Ladies and gentlemen I ask you to look at the equities in the situation, I ask you to waive the fairness to my clients, after relying on upon the township and going through the proper channels, and what's fair to them.

Mr. Costas commented upon the events leading up to this hearing, stating his client should not be penalized for any mistakes which, in his opinion, were made by the Borough. He felt at the very least a D-Variance might be required. Also, if it is determined it is a restaurant, not a fast food restaurant, but a restaurant, the matter could revert back to the Planning Board. He was unsure of which direction it should go. It was noted that the Planning Board does not handle D Variances.

The Board and counsel discussed the issues raised. Mr. Byrnes offered case law and background. After Mr. Byrnes spoke, a motion was made, seconded and unanimously carried to close the public hearing. Chairman Burke asked the Board to deal with the issues in order. A motion was made by Board Member Miller, seconded by Board Member Kazenmayer, that the Dairy Queen constitutes a fast service restaurant, according to the Manasquan Zoning Code. Motion carried y the following vote: "Yes" Board Members Parziale, Coan, Miller, VanStolk, Brittle, Kazenmayer and Burke. "No" none.

A motion was then made by Mr. Miller, seconded by Board Member Brittle, that the stop work order was proper and should not have been rescinded. Based on request from owners' counsel, it was also stated that while the stop work order was proper the owners should be allowed time in which to apply to the Board of Adjustment for variance relief. It was suggested this be done at the "soonest possible meeting." Motion carried by the following vote: "Yes" Board Members Parziale, Coan, Miller, VanStolk, Brittle, Kazenmayer and Burke. "No" none.

Mr. Byrnes stated for the record that the Board has determined that the rescinding of the cease and decease work order was improperly made and therefore the order dated February 18, 1997 has been reinstated; however, the Board also waived the effects of the order so that the owners may continue to operate. The owners are instructed that they must apply to the Board of Adjustment for the necessary use variance at the soonest possible date. Mr. Byrnes addressed Mr. Costas, stating because a law suit had been filed he had the option to request a conference/hearing in Supreme Court. If Judge Lawson determines a variance was not necessary, "so be it." It was also noted that if the application is filed this would be the only application necessary; there would be no need to go back to the Planning Board for an amendment to the original site plan.

There being no further business on the agenda, a motion was unanimously carried to adjourn the meeting at 2 a.m.

Respectfully submitted,

Marie Applegate

Marie Applegate, Board Secretary

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

THURSDAY JULY 24, 1997 SPECIAL MEETING AGENDA

On Thurssay July 24, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold a special meeting at 7:00 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

INTERPRETATION - Kenny vs Constantinou (Dairy Queen).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - AUGUST 20, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on August 20, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 p.m.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL - PRESENT - M. Parziale, T.J.Coan, J.Miller N. Hood, R.Brittle, M.Kazenmayer, J.Burke
ABSEMT - J. Van Stolk

A motion to approve the minutes of July 17, 1997 was made by J.Miller, seconded by M.Parziale, followed by the following vote: "YES" - M.Parziale, T.J.Coan, J.Miller, N. Hood,R.Brittle, M.Kazenmayer, J.Burke.

A motion was made by J.Miller not to start any new cases after 11:30 P.M. seconded by M.Kazenmayer, followed by the following vote: "YES" - M. Parziale, T.J.Coan, J.Miller, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

Mr. Byrnes read a resolution honoring Mr. Edward Lyons, who left the Board. A motion to approve the resolution was made by J.Miller, seconded by M.Parziale,followed by the following vote: "YES" M.Parziale, T.J.Coan, J.Miller, N. Hood, R.Brittle, M.Kazenmayer, J.Burke.

Mr. Ronald Lloyd was sworn in as a new member of the Board.

APPLICATION - 13-97 - Cont.- James Hope - 79 Second Avenue.
For the record there were no carry overs for this evening except for Mr. Hope, which is about to be heard, however no testimony was taken on this at prior meetings, so Mr. Lloyd will be able to participate.
Mr. Byrnes stated this application was originally before the Board back in May, it was carried at the request of Mr. Hope and also by the Board a few times and opened by the Board on July 17, 1997. The exhibits in the file were marked, however there was a problem that was explained to us, that the title was not 100% clear in Mr. Hope's name. Mr. Hope is now in receipt of the deed. The following exhibits were marked by Mr. Byrnes, an amended denial dated 6/19/97 marked as A-2A, a survey from Charles O'Malley dated 6/10/97 marked as A-7A, also an elevation certificate also from Charles O'Malley dated 2/27/97 marked as A-9 and a copy of a deed dated 8/19/97, between Joseph H. Palmer and Lois S. Palmer, residing in North Carolina and James Hope and Bonnie Hope.

That document consists of 4 pages and was marked A-10.
Mr. James Hope, 560 Salmon Avenue, was sworn in by Mr. Byrnes.
Mr. Hope testified it is a one story 20 x 38 ft. ranch house on the north end, directly across from the Coast Guard Station. The house is currently in a 5.5ft.flood elevation where 9 ft. is required. He testified he would like to raise it and put a garage underneath it, remodel the whole house, plumbing, electric and gas heat, turning it into a year round house. Right now it has electric heat. The house will probably be sold after he gets it done, as testified. It was bought as an investment and he testified he is improving it to sell.
Photos submitted were marked as A-11 to A22 for exhibit.
Mr. Hope explained the photos to the Board.
The amended denial shows the new piece of land that Mr. Hope didn't know was his when he purchased the property.
Mr. Hope testified, on the right elevation where it shows the rear deck top and botton, he would like to get rid of the bottom deck and just put on a porch. On the top deck, it will be right up to the house. He testified there will be no outside stairs to the top deck. He testified he would like to put pavers in the driveway and pavers in the front.

The Board would like to see the height of the house approximately 26 ft., unless Mr. Ratz says otherwise.

A motion for a site inspection on Saturday August 23, 1997 at 9:00 a.m., was made by J. Miller, seconded by M.Parziale, followed by the following vote: "YES" -M. Parziale, T.J.Coan, J.Miller, J.Burke.
"NO" - R.Lloyd, N.Hood, R.Brittle, M.Kazenmayer.

A motion to continue this application to the September 17, 1997 meeting was made by J. Miller, seconded by M.Kazenmayer, followed by the following vote: "YES" - R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, R.Brittle, M.Kazenmayer, J.Burke
Mr. Hope waived the time limit.

Mr. Miller was recused at 8:40 P.M. due to a bad back.

APPLICATION - 26-97 - Brian Gillen - 181 Third Avenue. The Board's file has been marked as A-1 to A-11.
The property owner James Miller is not the James Miller on the Board.
Owner wishes to construct 20' x 24' wood deck off second floor of house. R-3Zone. Application denied for the following reasons: 107-27 - Side Setback - 5 feet required, 2.49 feet proposesd. Rear Setback - 20 Feet required, 3 feet existing. Lot Frontage 40 feet required, 31.79 feet existing. Lot Area - 3400 sq. ft. required, 3179 sq. ft. existing. And any other variance the Board may deem necessary. A-5 Flood Zone - deck must comply. HARDSHIP VARIANCE.

Brian Gillen - 97 Main St. Apt. 5, was sworn in by Mr. Byrnes. Mr. Gillen testified he and his wife just purchased the property the later part of May. Upon purchasing, it was already under contract for summer renters. Our intent is to convert the property into year round for ourselves. The property is on Third Ave., directly across the street from the miniture golf course. The house sets 67 ft. from the roadway. Mr. Gillen explained the photos he submitted. On the ground floor is a garage which will be used as storage, the left of the garage is where the utilities are and there is a small stairway going to the upstairs. The living space upstairs consists of 2 bedrooms, 1 bath, kitchen and living room. Our intent is to have 1 bedroom, bathroom, kitchen and living room. Upstairs is the only living space, so we would like to put a nice deck out front, with sliding glass doors, making that the primary entrance to the building. The deck would expand the entire front of the house, 24' wide deck x 20'. In the middle would be the stairway going up. Steel galvanized steps with wood tread on top. The deck would be fiberglass on top. He testified he intends to put a new roof on, put some sky lights in, remove all existing windows and install new, they will be Anderson sliders in the front. The front is all cement block, he testified he will put installation and siding on to give a better appearance. Mr. Gillen testified there is no living area down stairs, and there will never be a living area downstairs.

A motion by M.Kazenmayer to close the public hearing seconded by N.Hood, followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N. Hood, R.Brittle, M.Kazenmayer, J.Burke.

A motion for a favorable resolution was made by M.Kazenmayer, seconded by T.J.Coan with the stipulation that the wings would be eliminated, the deck would be 12x24 and there would be no living area on the first level, seconded and followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

APPLICATION - 28-97 - George C.Frank, 553 Marlin Avenue. Mr. Byrnes marked the Board's file as A-1 to A-11. Owner wishes to construct a second floor addition. R-3 Zone. This application is denied for the following reasons: 107-27 Side setback - 5 feet required, 3.3 ft. proposed (west side), 3.0 Ft. existing to steps (east side). Rear setback - 20 ft. required, 5 ft. existing to deck. And any other variance the Board may deem necessary. A-5 Flood Zone - minimum first floor elevation required is nine feet above sea level. First Floor must be raised .3 feet. HARDSHIP VARIANCE. Block 182.03 Lot 1.553.

George C. Frank, 20 Doris Way, Clark, N.J., was sworn in by Mr. Byrnes.
Mr. Frank testified he purchased the house and property in 1978

with the intentions of retiring down here, and 19 years later the time has come. The first floor will stay much as it is on the blue print. Extending the second floor using existing roof overhang of 1.5 as a guide to cantilever East and West, will give us a little more room space, and a little more definition to the house instead of going straight up. He testified the house is rented until the end of August and after the construction he and his wife will move in. There is enough room for parking 4 vehicles. He testified there are 3 bedrooms now, there will be 2. They are eliminating 1 bedroom which will be where the stairs go. Mr. Frank testified if the application is granted he will remove the planter and steps on the east side of the deck, so the variance will not be needed on that side of the house. The shed on the deck will be retained.

Harold Hahn, 68 Voorhis Rd., Kinnelon, N.J. also has a home at 550 Marlin Ave. which is across the street from Mr. Frank. He testified he is really looking forward to the addition and is happy they are moving here year round.

A motion to close the public hearing was made by R.Brittle, seconded by N.Hood, followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N. Hood, R.Brittle, M.Kazenmayer and J.Burke.

A motion for a favorable resolution with the stipulation that the planter and steps be removed, was made by N.Hood, seconded by M.Parziale, followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N. Hood, R.Brittle, M.Kazenmayer, J.Burke.

Mr. Frank stated this is his 4th meeting he has attended and after reading the bad press that you people have gotten, I was curious, but after being here, I feel that you have been more than fair and your judgements have been very good. I thank you for my variance also. The Board appreciated his comments and thanked him.

A motion for a 10 minuted recess at 9:45 p.m., was made by T.J.Coan, seconded by M.Parziale and unanimously carried.

The Board returned from recess at 9:55 p.m. with the following Roll Call: R.Lloyd, M. Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

APPLICATION - 30-97 - Richard & Florence Hare - 28 First Ave. The Board's file was marked A-1 to A-8 by Mr. Byrnes. Owner wishes to raze the exterior shower. Construct addition to first floor, second floor and a third floor. R-4 Zone. Block 165 Lot 6.01-6.02. This application was denied for the following reasons. 107-27 Side Setback - 5 ft. required, 3.5 ft. existing and proposed - north, 1.74 ft. existing and proposed - south. Rear

Setback - 20 ft. required, 6.94 ft. proposed. Building Height - 2½ stories maximum allowed - 3 stories proposed. Note (f)1 - Proposed building does not comply with Option A. Note (f)3- Dormers exceed 10 ft in length and are not set back two ft. from exterior wall. Building Coverage - 35% maximum allowed, 54.4% proposed. Lot Coverage - 50% maximum allowed - 72.56% proposed. And any other variance the Board may deem necessary. A-5 Flood Zone - structure must comply. HARDSHIP VARIANCE.

Mr. Burke was noticed on this application, so he recused himself and Mr. Brittle will take over the meeting.
Mr. Byrnes in reference to A-5 notice of property owners, Dorothy Burke is a client of his in the matter of Estate Planning and believes this will not be a conflict. Mr. Henderson the Attorney for the applicant said he discussed it with his client and they do not have an objection.

Keith Henderson, Lautman, Henderson, Wight, put himself on record as Attorney representing the applicant.
Florence Hare, 110 Foxmeadow Dr, Orchard Park, N.Y., Richard Hare, 110 Foxmeadow Dr., Orchard Park, N. Y. and Paul Lawrence Architect, Richard Grasso Associates. Mr. Lawrence is a registered Architect in the State of N. J. for the past 7 years.

Mr. Hare testified he resides at 110 Foxmeadow Rd., Orchard Park, N.Y. and has resided in Manasquan for approximately 30 years in summers. My wife owns a home at 74 Second Avenue. He purchased the First Ave. property in 1972. At the present time it is not occupied and cannot be occupied at the present as it is in disrepair. The roof leaks, fireplace leaks, windows are bad. He testified it has never been rented and has no intentions of renting. He plans to retire in 3 years and hopes to retire down here. Mr. Henderson in addressing Mr. Hare, stated on the survey it shows two easements, one on the north side of your property and one on the south side of the beachfront property. Mr. Hare testified, the purpose of the easements on the north side is to have access to the beachfront house by Mr. & Mrs. Smith. The purpose of the easement on the south side is to allow myself, my wife and our family to have access to the beach. The purpose of the retaining wall on the south side of the property, is that there is a door into the garage and it keeps the sand from going into his basement. He testified on the first floor at the present time is a basement, a floor above which has 3 bedrooms, 2 bathrooms, a living room and kitchen. There is room for 4 vehicles to be parked in the garage.

Mr. Lawrence testified about the set backs. The existing lot coverage was 88.1%. They are now proposing to eliminate the concrete along the north wall and the back and replace it with a pervious board walk type of structure which will bring it down to 72.56% which is proposed. He testified the present

building coverage is 54.16% and the proposed is 54.38%. He testified Manasquan would count that as a 2 story building, but BOCA would calculate it as one story building. The proposal for the new top floor is a 1/2 story. On the 1/2 story will be the master bedroom with attached bathroom on the First Ave. side and a den on the east side with an open porch. There are 7 houses that are 3 stories on the east end of First Ave. Mr. Lawrence testified they currently adhere to the 17½ ft. beginning a 33° roof pitch. Where we are looking for a variance is, the full linial footage of dormer is allowed 15%, we're seeking 17.2%. The code states a single dormer should not exceed 10 Feet, we're seeking 12 Feet. Lastly the three dormers questioned are the same wall line as the floor below, where the code requests that they be set back 2 feet.

Barbara Smith, 1057 Bayview Rd., Middletown, Delaware came forward and was sworn in by Mr. Byrnes. She testified she believes the water comes in on the north side easement of Mr. Hare's.

Mr. Lawrence testified the master bedroom dormer is a hip dormer, the dormer that is a continuation of the east side gable of the den, would be considered a shed dormer. The dormer for the staircase coming up to the 1/2 story would best be described as a gable dormer. We have dormers on both sides. The size of the shed dormer is 12 feet. The hip dormer is 14 ft. but the chimney takes up some of that, which would make it 9 ft. Mr. Lawrence testified to get use of the steps he had to put a dormer on both sides. He said the existing site conditions are causing a hardship.

Mr. Hare testified the best view from the deck is where Paul has it. If you move the deck on the other side you don't get the view.

Mr. Coan stated we have granted variances for the stairs, it is totally understandable, but in this case to blow out both sides he doesn't believe it has been done before. He doesn't think the ordinance was taken enough into consideration.

Mr. Lawrence testified the basemanet area will be for storage only. The basement bath will not be above flood elevation. Mr. Coan wanted to know how it would exist? Mr. Lawrence could not answer that question.

Mr. Lawrence testified the reason he had steps to the outside was to give the space to stand when opening the door.

Shawn Coffee, 18 First Avenue came forward and was sworn in by Mr. Byrnes. He wanted to know why Manasquan is calling this a 3 story when Boca is calling it a 2 story. He thinks it is

a beautiful 2 story house. Mr. Lawrence stated Manasquan counts from where the building elevation is taken, and that would be for this house on First Avenue, and when you have anything greater than 5 ft. on a floor it is counted as a story, so because the basement is a full 8 feet, it's above that 5 ft.. BOCA is done on the percentage of the ground coverage around the building perimeter.

John Dowling, 45 Beachfront. Mr. Byrnes stated Mr. Dowling is no client of his. He has met him as he has been in the building that Mr. Byrnes owns for secretarial services. He stated we should be happy we are getting decent people coming into this community, and getting rid of the group rentals. He is concerned that unless we encourage these people to come in, unless we cooperate with them and approve the reasonable requests, somthing that has happened before will happen again, so lets help these people to come into this community.

A motion to close the public session was made by N. Hood, seconded by R.Lloyd, followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer,

Mr. Coan asked Mr. Lawrence if the 14 ft. hip in the bathroom could be removed? Mr. Lawrence said he could cut it back but didn't think he could remove it entirely.

Mr. Hare testified it would radically change his plan. There is no room to put a decent bath in. By removing that hip you are going to really alter that floor. It is not blocking any ones view, it is over looking the roof.

A motion for a favorable resolution was made by N.Hood, with the following stipulations, that there be parking for 3 cars in the garage, the bath in the basement be raised above flood elevation, air condition compressors be put in the rear yard, and the basement will be used for storage only, seconded by M.Kazenmayer, followed by the following vote: "YES"- R.Lloyd, M.Parziale, N.Hood, R.Brittle, M.Kazenmayer. ABSTAIN - T. J.Coan.

Chairman Mr. Burke returned to the Board at 11:15 P.M..

APPLICATION - 31-97 - June Rafferty - 357 First Avenue
The Boards file was marked as A1 to A 15 by Mr. Byrnes. Owner wishes to add third floor and deck to existing dwelling. R-5Zone. This application is denied for the following reasons:
107-27 - Lot Frontage - 40 feet required, 28 feet existing. Side Setback - 5 feet required, .5 feet existing to stairs, 1.15 feet proposed -north. Height - 2½ stories maximum allowed, 3 stories proposed. Lot Coverage - 50% maximum allowed, 76.4% proposed. 107-23.3 - Curb Cuts in Residential Zones. One 12' curb cut permitted. Curb cut is full width of lot which is 28'

wide. A-5 Flood Zone - Lower level is below the base flood elevation of nine feet. The addition is less than 50% of the fair market value of the structure, therefore no upgrading and no variance is required from the flood code. HARDSHIP VARIANCE. And any other variance the Board may deem necessary.

June Rafferty, 3-38 32nd St, Fairlawn, N.J., Susan King, 357 First Avenue, Manasquan, were sworn in by Mr. Byrnes. Susan King testified she is the daughter of June Rafferty.
She testified they want to put another level on with 2 bedrooms and 1/2 bath, so that her mother can move down here and they will all be together. The house was purchased in 1963 and the property was purchased in 1991.
Ms. King testified they have 2 bedrooms on the first level and they want to change it to 1 bedroom and a porch on the back of the house. There is 20 ft. from the fence to the end of the driveway. There is parking for 3 cars in the back and 1 in the front driveway and 2 in the street. She testified on the first level (basement) you walk to the stairs, which is all open space and in the back is a laundry room, a washer, dryer, furnace, toilet, shower. no living space down there at all, storage only. The second level will be living room, one bedroom, bathroom, kitchen eating area, dining room and the deck. The thrid floor is the master bedroom, second bedroom and bath.

Mr. Coan suggested entering that door in the front and putting the stairs inside and eliminating the stairs on the outside.

A motion to close the public hearing was made by N.Hood, seconded by M.Parziale, followed by the following vote: "YES"- R.Lloyd M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

T.J.Coan thinks the application is fine if they agree to complete the curb on first Ave, putting some pervious surface in that concrete area in the front, removing the front exterior steps and providing their egress and ingress from the front of the house from the internal stair case, also have them stipulate that the first floor will be used only for storage except for a foyer to get upstairs and no spiral stairway outside.
Mrs. Kazenmayer feels the same as Mr.Coan. Mr. Hood agrees with what was said, but would like to see flower boxes or shrubberyin the front.

A motion for a favorable resolution was made by T.J.Coan with the following stipulations, eliminate front curb cut on First Avenue, eliminate the outside steps and put them inside with a foyer. eliminate the pervious surface in the front, install a curb across the front, no spiral staircase between the 2 decks in the rear, a 30 ft. height limitation, air condition compressors in the rear, storage on the first level only, except

wide. A-5 Flood Zone - Lower level is below the base flood elevation of nine feet. The addition is less than 50% of the fair market value of the structure, therefore no upgrading and no variance is required from the flood code. HARDSHIP VARIANCE. And any other variance the Board may deem necessary.

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Mr. Coan suggested entering that door in the front and putting the stairs inside and eliminating the stairs on the outside.

A motion to close the public hearing was made by N.Hood, seconded by M.Parziale, followed by the following vote: "YES"- R.Lloyd M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

T.J.Coan thinks the application is fine if they agree to complete the curb on first Ave, putting some pervious surface in that concrete area in the front, removing the front exterior steps and providing their egress and ingress from the front of the house from the internal stair case, also have them stipulate that the first floor will be used only for storage except for a foyer to get upstairs and no spiral stairway outside.
Mrs. Kazenmayer feels the same as Mr.Coan. Mr. Hood agrees with what was said, but would like to see flower boxes or shrubberyin the front.

A motion for a favorable resolution was made by T.J.Coan with the following stipulations, eliminate front curb cut on First Avenue, eliminate the outside steps and put them inside with a foyer. eliminate the pervious surface in the front, install a curb across the front, no spiral staircase between the 2 decks in the rear, a 30 ft. height limitation, air condition compressors in the rear, storage on the first level only, except

for a foyer area, and the rear curb cut will be 20 feet. and a new set of plans to be provided, seconded by R.Lloyd, followed by the following vote: "YES" - R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

The Board went into executive session at 12:35 A.M. with a motion from N.Hood, seconded by R.Lloyd, followed by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

The Board came out of executive session at 1:25 A.M. with the following Roll Call: R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 20-97 - Kevin Toomey - 59 Rogers Avenue
A motion to approve the resolution was made by N.Hood, seconded by T.J.Coan, followed by the following vote: "YES"- T.J.Coan, N. Hood, R.Brittle, J.Burke

RESOLUTION - 19-97- Joseph Carlet - 113 Ocean Avenue
A motion to approve the resolution was made by. R.Brittle, seconded by M.Kazenmayer, followed by the following vote: "YES" N.Hood, R.Brittle, M.Kazenmayer, J. Burke.

RESOLUTION - 21-97 - Doris Kymer - 497 Long Avenue
A motion to approve the resolution was made by M.Kazenmayer, seconded by N.Hood, followed by the following vote: "YES"- N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 23-97 - Brian & Kathy Wick - 6 Gardners Lane
A motion to approve the resolution was made by. R.Brittle, seconded by M.Kazenmayer, followed by the following vote: "YES" R.Brittle, M.Kazenmayer, J. Burke.

RESOLUTION - 24-97 Katherine Kolon - 19 McGreevey Drive
A motion to approve the resolution was made by. M.Kazenmayer, seconded by. N.Hood, followed by the following vote: "YES"- N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 25-97 - Gordon Strout, Jr. - 24 McGreevey Dr.
A motion to approve the resolution was made by N.Hood, seconded by M.Kazenmayer, followed by the following vote: "YES"- T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 34-97 - Peter Kenny -
A motion to approve the resolution was made by T.J.Coan,seconded by M.Kazenmayer, followed by the following vote: "YES"- M.Parziale, T.J.Coan, R.Brittle, J.Burke.

There being no more business, a motion to adjourn at 1:40 A.M., was made by M.Parziale, seconded by R.Brittle, followed by the following vote: "YES" M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

Respectfully submitted

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736

JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

CONSTRUCTION OFFICIAL AND CODE ENFORCEMENT DEPARTMENT

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - SEPTEMBER 17, 1997 MEETING AGENDA

On Wednesday September 17, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACATION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 13-97 - Cont. James Hope - 79 Second Avenue

APPLICATION - 32-97 - Anthony & Annmarie Fernandez -6 Acpoan

APPLICATION - 33-97 - Robert & Ann Battista - 480 Brielle Rd.

RESOLUTION - 26-97 - Brian Gillen - 181 Third Avenue

RESOLUTION - 28-97 - George Frank - 553 Marlin Avenue

RESOLUTION - 30-97 - Richard & Florence Hare -28 First Ave.

RESOLUTION - 31-97 - June Rafferty - 357 First Avenue

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

JGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD
MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY AUGUST 20, 1997 MEETING AGENDA

On Wednesday August 20, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 13-97 - Cont. James Hope - 79 Second Avenue

APPLICATION - 26-97 - Brian Gillen - 181 Third Avenue

APPLICATION - 28-97 - George C. Frank - 553 Marlin Avenue

APPLICATION - 30-97 - Richard & Florence Hare - 28 First

APPLICATION - 31-97 - June Rafferty - 357 First Avenue

RESOLUTION - 20-97 - Kevin Toomey - 59 Rogers Avenue

RESOLUTION - 19-97 - Joseph Carlet - 113 Ocean Avenue

RESOLUTION - 21-97 - Doris Kymer - 497 Long Avenue

RESOLUTION - 23-97 - Brian & Kathy Wick - 6 Gardners Lane

RESOLUTION - 24-97 - Katherine Kolon - 19 McGreevey Drive

RESOLUTION - 25-97 - Gordon Strout, Jr. - 24 McGreevey DR.

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

RESOLUTION - Edward Lyons

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT

MEETING MINUTES - SEPTEMBER 17, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on September 17, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL - PRESENT - R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke, M.Kazenmayer.

A motion was made by R.Lloyd, seconded by M.Parziale to approve the minutes of August 20, 1997, followed by the following vote: "YES" - R.Lloyd, M.Parziale, T.J.Coan, N. Hood, R.Brittle, M.Kazenmayer, J. Burke. ABSTAIN - J. Miller, J.VanStolk.

APPLICATION - 13-97 - Cont. James Hope - 79 Second Avenue
Mr. Byrnes stated, for the record, there is one additional exhibit, a certification from J.VanStolk, certifing she has listened to the tapes of the August 20, 1997 meeting although she was not in attendance. For the record all the other board members who are here tonight, were present at that meeting, including Mr. Lloyd who was sworn in as a new member after the attendance had been taken. Certification has been marked as exhibit A-23.

Mr. Hope had been placed under oath at the prior meeting.
Mr. Robert Zanes, 430 Long Avenue, came forward and was sworn in by Mr. Byrnes. Mr. Zanes submitted a drawing which was marked as exhibit Z-1. Mr. Zanes testified his concern is the size of the lot and in fact the size of the building that is going up. His contention is that the lot is too small to over burden it with really more than what's on it initially. He testified there are 2 structures on either side of this building all on 25 ft. lots. The Hope structure is 14 ft. 7 inches tall and he wants to raise it to 24'4". Side yard set backs are 2'2" onthe south side and 2.1' on the north side and in fact to the structure next door, approximately 4' on the south side and a little bit over 4' on the north side.

If the structure is allowed to be built as it is, rain, ice what have you, when blown off is just going to fall on the neighboring structures. From eve to eve on the north side there is 22" and from the south side 16". He hopes that the board would turn this application down.

Mr. Hope testified, as far as rain and ice, gutters will take care of that. That drawing is not the way the house is going

to look. There will be standard doors, full glass, shutters on the house, it will be done in desert tan, it will look like a colonial house. Mr. Zanes made reference to the notice sent to the people within 200 ft. and the notice which appeared in the paper.
For the record, Mr. Zanes is Vice Chairman of the Planning Board, but he is here as a private citizen. He testified the area in question has not been rezoned in the 5 years he has been on the board. He testified he has never had any discussions with any planning board members, either in a meeting or executive session or outside of a meeting about this particular property.

Steven Smith, 104 Ocean Avenue, Manasquan, N. J., his permanent residence is in Manhattan, 36 W 71st St. in New York. This is my summer home, which I purchased back in May 1997. He testified his property is directly behind the house in question. He testified, he has several places on his property that have unobstructed ocean views. If this house goes up it will block my view.

Mr. Byrnes stated, Mr. Smith you purchased your house in May of 1997, Mr. Hope filed his application in February of 1997, are you aware of that. Mr. Smith said he was not aware of that. He testified he became aware when Mr. Zanes gave him the notice sometime in June or July whenever the first meeting was.

Mr. Hope stated when he came before the Board he said it was a group rental house, it'a a winter rental, it's in a flood zone, it had 2 ft. of water in it in 1992, it can stay that way if that is what Manasquan wants. I am only trying to make this into a decent house, it will not be a group rental any more.

A motion to close the public portion was made by T.J.Coan, seconded by J.Miller, followed by the following vote: "YES" - R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

A majority of the Board felt the lot was too small and too congested, not enough light and air.

Mr. Hope withdrew his application without prejudice.

APPLICATION - 32-97 - Anthony & Annmarie Fernandez - 6 Acpoan
Board's file has been marked as A-1 to A-11.
Owner wishes to install central air-conditioning units in the side yard setback and have an 18'x28' on grade concrete patio.
R-2 Zone.
This application is denied for the following reason:
107-27 - Side Setback - 5 feet required, 3 feet to air conditioner proposed. (House is 6 feet from lot line)

Lot Coverage - 45% maximum allowed, 49% proposed. And any other variance the Board may deem necessary. Not a Flood Zone.
HARDSHIP VARIANCE.
NOTE: This house is under construction and the above items are changes proposed by the owner to the original conforming plans.

For the record, James Miller listed on the noticing of the property owners within 200 ft. is not the James Miller on the Board.
Anthony Fernandez, 301 Clairmont Terrace, Union, N. J. was sworn in by Mr. Byrnes.
Mr. Fernandez testified he would like to relocate his air compressors from the front of the house to the side. He did talk to his neighbor on that side and he had no problem. Mr. Fernendez stated he would like to enlarge his concrete patio. Mr. Fernandez is 6 ft. from his property line, his neighbor is 5 ft. to the garage and the house is about 12 ft., that is why he feels there is no problem putting the air compressor on that side of his house.
It was suggested putting it on the right side of his driveway or in the front next to the steps. Mr. Fernandez purchased the property January 1997.

A motion to close the public meeting on this application was made by N. Hood, seconded by M.Kazenmayer, followed by the following vote: "YES" R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

The Board had a problem with the condensors being put next to the neighbors, increasing the concrete slab, unless it was in pavers. Mr. Burke stated "you have so many options to not create a variance, that if you want anything that is going to create a variance on this property, he feels it is not going to get an approval tonight". The Board suggested he talk to Mr. Ratz. Mr. Fernandez withdrew without prejudice.

A motion for a 10 minute recess was made at 9:05 p.m. by Mr. Miller, seconded and carried by the following vote: "YES"- R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke

The Board returned from recess at 9:15 p.m. with the following roll call: R. Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke

APPLICATION - 33-97 - Robert & Ann Battista - 480 Brielle Rd.
The Board's file was marked A-1 to A-10 by Mr. Byrnes.
Owner proposes to construct addition to existing dwelling.
R-3 Zone.
This application is denied for the following reason(s):
107-27 - West Side Setback - 5 feet required, 3.7 feet existing.

(NOTE: Addition will meet five foot setback)
East Side Setback - 5 feet required, 0 feet to shed.
Rear Setback - 20 feet required, 9 feet existing. And any other variance the Board may deem necessary. HARDSHIP VARIANCE
A-5 Flood Zone - Addition must meet flood code requirements.

Mr. Byrnes swore in Ann Battista, 480 Brielle Rd, Robert Battista, 480 Brielle Rd, and Paul Amelchenko, Architect, Amelchenko Design Inc.. Mr. Amelchenko is licensed in the State of N. J. Mr. Parziale recused himself, as Mr. Amelchenko is the Architect on his mother's project.

An artist's rendering in full color was submitted and marked as evidence A-10.
Ann Battista testified her husband's 15 year old daughter is living with them and they need another bedroom. They would like to add a bedroom over the living room, which would give his daughter a bedroom. The windows to the rear of the house will all be new, which will give them a view of the river.
The house and property were purchased in 1996.
The shed, an accesory structure in the rear, is on the easterly side yard of the neighbors line by 2 inches off of one side.
It is an additional 2½ft. from the rear property line. A purvious deck has been constructed around that entire area, that is terraced and ties in with the dock. Removing that shed would become quite painfull.
Mr. Amelchenko stated they are proposing a 2nd floor bedroom 18x12' in width, for their daughter. It will not affect light and air and will enhance the neighborhood. There will not be an outside stairway to the deck. There is a spiral stairway in the kitchen leading up to the bedroom.

A motion to close the public portion was made by R.Brittle, seconded by M. Kazenmayer, followed by the following vote: "YES" - R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

A motion for a favorable resolution with no stipulations was made by M.Kazenmayer, seconded by T.J.Coan, followed by the following vote: "YES" - T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J. Burke.

For the record Mr. Parziale returned to the board.
Mr. Miller was excused from the board.

RESOLUTION - 26-97 - Brian Gillen - 181 Third Avenue
Amended plans were submitted and marked as A-8B
A motion to approve the resolution was made by M.Kazenmayer, seconded by N.Hood, followed by the following vote: "YES" - R.Lloyd, M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 28-97 - George Frank - 553 Marlin Avenue
The resolution was read by Mr. Byrnes. A motion to approve the resolution with an amendment to eliminate the condition of submitting a revised set of plans and reworded so that the existing plans are acceptable with the condition that the steps and planter on the east side are removed and the deck will comply with the setback requirements, was made by M.Kazenmayer, seconded by R.Brittle, followed by the following vote: "YES" - R.Lloyd M.Parziale, T.J.Coan, N.Hood, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 30-97 - Richard & Florence Hare - 28 First Avenue
A set of plans have been submitted and marked as A-8A
A motion to approve the resolution in accordance with the new plans was made by R.Brittle, seconded by M.Parziale, followed by the following vote: "YES" - R.Lloyd, M.Parziale, N.Hood, R.Brittle, M.Kazenmayer.

RESOLUTION - 31-97 - June Rafferty - 357 First Avenue
The resolution was read by Mr. Byrnes. Revised sets of plans were marked A-9A and A-10A.
A favorable resolution was made by N.Hood, with the following conditions, that there is no living area on first floor, storage only, elimination of the existing curb cut, driveway and impervious surface in the front of structure, and provisions for a curb cut not to exceed a width of 20' in the rear on Timber Lane, seconded by M.Parziale, followed by the following vote: "YES" - R.Lloyd, M. Parziale, N.Hood, R.Brittle, M.Kazenmayer, J.Burke. "NO" - T.J.Coan.

OLD/NEW BUSINESS

Mr. Parziale suggested recommending to the Planning Board that on new construction, the electric, telephone and cable wires be put under ground.
Mr. Miller will make the recommendation to the Planning Board next month.

A motion to pay all bills was made, seconded and unanimously carried.

A motion to adjourn at 11:50 p.m. was made, seconded and unanimously carried

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - OCTOBER 15, 1997, MEETING AGENDA

On Wednesday October 15, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 36-97 - Squan Village Historical Society, Inc.
105 South Street

APPLICATION - 29-97 - Joseph DeGenova & Donna Perez
54 Iroquois Road

APPLICATION - 35-97 - Joseph Rufolo - 104 McLean Avenue

RESOLUTION - 33-97 - Robert & Ann Battista - 480 Brielle Rd.

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT

SPECIAL MEETING - OCTOBER 15, 1997

The Manasquan Zoning Board of Adjustment held a special meeting on October 15, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke called the special business meeting to order at 6:30 P.M.. This meeting has been called to talk about pending litigation before the Board.

ROLL CALL: PRESENT _ R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.
ABSENT - M. Parziale.

Motion to go into executive session at 6:30 P.M. was made by J.Miller, seconded by R.Lloyd, followed by the following vote: "YES"- R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J. Burke

The Board came out of executive session at 7:35 P.M. with the following ROLL CALL: R. Lloyd, T.J.Coan, J. Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

The Executive Session was closed at 7:40 P.M. with the following Roll Call: R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke

Chairman John Burke, opended the Special Meeting at 7:45 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: Present -R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.
ABSENT - M.Parziale.

APPLICATION - 5-97 - Gertrude Rossetti - 50 First Avenue
Mr. Burke has to step down as Chairman as he lives within 200 ft. of the applicant. The meeting has been turned over to Vice Chairman Mr. R.Brittle. For the record Mr. Lloyd will recuse himself as he was not able to hear the tapes, as they were at the transcribers.

Ms. Nancy Wright, Attorney with the Law firm of Bathgate, Wegener & Wolf is on record as appearing on behalf of Gertrude Rossetti and Mr. & Mrs. Gordon Twadell.

Mrs Gordon Twadell, daughter of Mrs. Rossetti, and John Milligan the contractor came forward.
Ms. Wright stated, as the Board knows, the purpose of this meeting is to reopen the hearing at the direction and order of Judge Lawson for the purpose of what was originally intended when she last appeared here, to give them an opportunity to address mistakes in the record and to request that the condition of the deed restriction be rescinded. At this time the areas that will be addressed are the date that the apartment was first known to exist and the date of the first zoning ordinance that was enacted in Manasquan. The purpose of introducing the date is to demonstrate that the apartment was a pre-existing use before the first zoning went into effect and to also add testimony showing that the front porch area was capable of being enclosed prior to this application. That's important to show the minimal, minimal, nature of this application.

Mr. Byrnes stated the last exhibit was A-19, additional exhibits A-20 is affadavit of publication for this meeting, A-21 proof of service of public notice, A-22 copy of the notice appearing from the applicants dated 10/2, and marked as A-6A the list of property notices being served, also in the file is a copy of the order from Superior Court signed by Judge Lawson dated September 30, 1997.

Mr. John Milligan, 2908 Garfield St. Wall, the Carpenter for the applicant, was sworn in by Mr. Byrnes. Mrs. Twadell had been sworn in at a previous meeting.

Mrs. Twadell testified she is the daughter of Mrs. Rossetti. The property was added to the property in 1946 by her parents. She knows that because in 1947 she graduated from Junior High School and at that time her parents allowed a friend and herself to stay in that apartment after their graduation, when they came down on that weekend. That apartment was finished and furnished when they stayed in there in June of 1947. The apartment at that time was the same as it is now, a kitchen, bathroom, living room and 1 bedroom. She testified the first zoning ordinance enacted in Manasquan was December 1947.
Mrs. Twadell stated she got the 1947 ordinance from Mr. Szymanski. The 1947 ordinance was approved and published on December 2, 1947, a copy of which was marked into evidence as A-23 by Mr. Byrnes.

Mrs. Twadell testified, when the house was purchased by her parents the beginning of 1942, there were windows that were used off and on on that porch area. The windows that were used on that porch were stored in the garage. When we started work on that porch, Mr. Milligan disposed of them when he got rid of the debris that they had to get rid of.

Mrs. Twadell testified, the rear porch is enclosed and has always been enclosed.
Mr. Hood would like to submit somthing into evidence, but Mr. Byrnes stated this is cross examination of a witness, if you have a question of the witness, you are permitted to ask it.

Mr. Milligan testified, he had been working for the Twadells and was asked about remodeling and winterizing Mrs. Rossetti's property. In connection with that, the changes that were part of the permit, that he did the work for, called for the removing of a bearing wall. In working on the structure, in connection with the front porch, he did find windows that Mrs. Twadell referred to. He testified, the windows were the old fashion storms, the hooks on the house and the windows latch into and fall down on the frame and closed with turn buckles. He testified he threw the windows in the dumpster. He testified the porch had an outlet for a light.

Mr. Coan asked Mr. Milligan, when you do renovations, do most porches have electricity, and are you a licensed contractor. Mr. Milligan replied yes, he is a carpenter.

Ms. Wright stated the purpose of the testimony was already stated and presented on the record, and what is important to remember is that the apartment was there before the zoning. The property has protected rights as it relates to the existing non-conforming uses on the property. The apartment was not in any way affected by the application to change the roof line on this property. There was testimony before, of the nature of the area of other properties existing exactly the same, there was testimony that demonstrated the apartment was not changed in any way, accordingly the condition that was placed by this Board on the work being able to be completed to make the property safe and upgraded and modernized, was unreasonable and unreasonably burdened the property owner. As a matter of law, it interfered with the rights of the property owner in a way which was not intended for a zoning board on such a minimal application to do so. It interfered by prohibiting the renting of that apartment, that goes to the nature of the use of that apartment in the sense that it discriminates or distinguishes between whether it's the property owner or a tenant whether it's a renter or whether it's friends or family member. That has no bearing on the non-conforming use. That goes to concerns that the board might have about enforcement concerns, but enforcement concerns are police power concerns, there not zoning board use concerns when it comes to an application of such a minimal nature.
For the record, Ms. Wright referred to the Urban case as it relates to that and also in connection with imposing severe restriction on a non-conforming use, it needs to be stated that in the Beers Case, it states that the test of a non-conforming

use is use not ownership or tenancy. Ms. Wright states there is no basis in any way to justify the condition that was imposed. The Urban Case states that as the matter of fact and law that it is not the intent for zoning to interfere with police powers or to try to regulate in that fashion. Essentially for those reasons and because it was an unnecessary restriction totally irrelevant to this application, I would ask that that condition be rescinded".

Mr. Byrnes instructed the board, that the limited nature pursuant to the order of Judge Lawson, the Board is to consider only facts which are presented to them by the plaintiff, as the history of the application is applicable to appeal of construction official Ratz's February 29, 1997 denial for this application for a building permit. Any vote that will be taken will be in regard only to paragraph 4 on page 6 of the resolution of 5-97- " Approval of this application is subject to the applicant preparing and filing a Deed with the Clerk of Monmouth County in which a restriction whall be set forth that the applicant will not rent the auxiliary apartment that is attached to the main structure, and; applicant shall provide proof that she has applied to the Water and Sewer Dept. to have the two dwelling units on the subject property consolidated into a single account with a single water meter".

Mr. Byrnes noted that Ms. Wright submitted to him the signed and notarized deed, which did contain that declaration of restrictions.

Ms. Wright stated she believed it was clearly understood by the Board before, but while the term was used to winterize the apartment, it is important for the Board to note the apartment and main dwelling was heated in the past. Mrs. Twadell testified that was on the record.

Mr. Hood wanted to rebut Mrs. Twadell's as she said the apartment was there since 1946. He would like to present in evidence 2 journals from 1941 to 1947, Building, plumbing and alterations. Ms. Wright objected on the grounds," that the order from Judge Lawson expressly seeks, to start, that the purpose of this hearing is to be limited to the presentation of the applicant. She would also like to say, in the past, in this very same application Mr. Hood was instructed by Mr. Byrnes that the nature of the application is limited to the sworn testimony of the people that appear before this board, the exhibits that are marked into evidence and it is not a board members roll, job, duty and in fact the opposite, it is a board members job to be imparcial, not to go on his own independant hunt to try to find facts and or information and put pieces together that are not a part of this application, that are in fact hearsay, because no one is here to swear or enter any kind of evidence or proof.

The only oath that these people took, was that they would tell the truth. The oath that you took as a board member is that you would be impartial. You have been instructed on this record before by Mr. Byrnes, that you don't do that. I have nothing more to say, in fact I said enough".

Mr. Byrnes stated to Mr. Hood, "your journals that you have, will not be admitted into evidence, will not be presented to this board, based on #1 - upon the order of Judge Lawson and # 2 - Ms. Wright is absolutely correct, you have been instructed before, that your conduct was imporper and that you were not to do it and that instruction still applies, you are not to go out on your own, you are not to go look things up, in this or any other application. I will ask all of the members of the Board to set aside any comments made by Mr. Hood, made in their determination, I will strongly urge that the Board set aside any comments made by Mr. Hood in your determination, when you vote, and Mr. Hood I will specifically instruct you to set aside any thing that you have read, looked up, researched or any thing else that is not part of this record. Can you do that sir". Mr. Hood replied - yes.

Mr. Coan asked Ms. Wright if she was familiar with the two previous evenings that we sat here before you came on and you read the transcripts of those evenings? She replied she listened to the tapes. Mr. Coan stated - and you don't recall Mr. Twadell's testimony that the houses weren't heated.
Ms. Wright stated to the contray, there was heat in the house.
Ms. Wright stated to Mr. Coan " heating is heating, rights go with it, it doesn't matter if you have the most efficient or the least efficient, if there is anything that provides heat that is sufficient to protect your rights".

Mr. Twadell came forward and Mr. Coan asked him - in our meeting on February 19, 1997, the minutes show that you stated "the house is 80 years old and Mrs. Rossetti would like to make it a winter home. The building will be resided. It is not heated at present, only temporarily". Mr. Coan wanted to know exactly what that means. Mr.Twadell replied, it means that there was a space heater there, a chimney, an outlet to the chimney, and that is what heated the house. Mr. Coan wanted to know if there was a building permit for that space heater? Mr. Twadell replied that space heater has been there since they bought the house and it was kerosene, located in the center of the house. The downstairs was heated by electric plug in heater. There were 2 plug in's and one was a fixed unit.
Mr. Coan asked Mr. Twadell if it was his signiture. Ms. Wright objected, as it is outside the scope of the application.
She would also like to remind Mr. Coan that the only area that was subject to any change under this application would be the area that we have been talking about, not the apartment. Mr.

Coan stated that you stated in the past it is not a use variance.

Ms. Wrightsaid "what she has stated and what Mr. Twadell is stating is that there was heat on the building - that's all. So in terms of what this application is sought to do, this application didn't seek to do any thing much at all. It was probably the smallest application that could be before this board".

Mr. Byrnes stated Ms. Wright has made objection to a document that you have produced Mr. Coan. Is it a document that we have made as part of the record on prior occasions. Mr. Coan answered no. Mr. Byrnes told Mr. Coan to take the document back and the same instructions he gave to Mr. Hood less than 10 minutes ago, applies to you also. Mr. Coan wanted to know just what are we voting on.

Mr. Byrnes stated what we are voting on is paragraph 4 page 6 of the original resolution of 5/97. " Approval of this application is subject to the applicant preparing and filing a Deed with the Clerk of Monmouth County in which a restriction shall be set forth that the applicant will not rent the auxiliary apartment that is attached to the main structure, and; applicant shall provide proof that she has applied to the Water & Sewer Department to have the two dwelling units on the subject property consolidated into a single account with a single water meter".
Mr. Byrnes stated that whole paragraph will be deleted if the Board votes that way.
Mr. Coan stated then the house will be considered a two family home again and now it would be a winterized family home - is that what we are voting on. Mr. Byrnes said you are voting on what is contained in this paragraph, whether it is going to stay or not. Mr. Coan said it is not really staying, so we gave them permission before to keep this entire house, based on the fact that it would be inspected as a single family home, we also granted a variance for parking, based on the fact that it was a single family home, now it is going to be a two family home, there is still the issue of parking variance, which I would view differently, if it's going to be a two family home, and there is the issue of adding the heat which would be viewed differently. I'm really puzzled, if you drop that, then it really changes the application as a whole.

Mr. Coan stated Mr. Twadell has testified thoroughly enough for me that the upstairs unit did have heat, but I don't think testimony to be thorough enough that the downstairs unit had heat. Mr. Coan said when he did his site inspection, he did not see any hard wire unit and I'm limiting my comments to the record. If we remove that paragraph, it's a completely different

application.

Mr. Miller made a motion to rescind the restrictions that were previously placed in this resolution of 5/97 which had approved the original application, (a yes vote is to remove or rescind a no vote), seconded by M.Kazenmayer, followed by the following vote: "YES" - J.Miller, J.Van Stolk, R.Brittle, M.Kazenmayer. "NO"- T.J.Coan. ABSTAIN -N.Hood. with the explaination that he feels this has only been a one-sided thing, we haven't heard the whole case.

For the record, the Chairman Mr. Burke has returned to the Board, also Mr. Lloyd has returned.

A motion to close the special meeting was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES"- R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustmen

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY OCTOBER 15, 1997 SPECIAL MEETING AGENDA

On Wednesday October 15, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold a special meeting at 7:00 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 5-97 - Gertrude Rossetti - 50 First Avenue

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT

MEETING MINUTES - OCTOBER 15, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on October 15, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:45 P.M.. He staterd this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL:- PRESENT - R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.
ABSEMT - M. Parziale

A motion to approve the minutes of September 17, 1997 was made by J. VanStolk, seconded by J.Miller, followed by the following vote: "YES" - R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

APPLICATION - 36-97 - Squan Village Historical Society Inc.
105 South Street

Keith Henderson, Lautman, Henderson & Wight, is on record as the Attorney for the applicant.
Mr. Brittle and Mr. Hood are members of the Historical Society, and will have to recuse themselves. Mr. Lloyd has volunteered his time to do work for the historical, but does not have to leave the Board. Mrs. Van Stolk is going to be represented by Mr. Henderson on her case coming before the Board, but does not have to step down.

The Board's file has been marked as A-1 to A-7. Mr. Henderson submitted the following exhibits to be marked as A-8 a map from the Beers Atlas of Monmouth County of 1873, A-9 a map from the Wolverton Atlas of Monmouth County of 1889, A-10 a letter from the Prespyterian Chuch of Manasquan, A-11 a proposed rough site plan prepared by Mr. O'Malley and 3 photos marked A-12-A13-A14.

The Society wishes to convert the existing residence into a museum. R-2 Zone.
This application is denied for the following reason: 107-9 - One family residential zone - not a permitted use. USE VARIANCE. And any other variance the Board may deem necessary.

Marshall Brown, 466 Long Avenue, Manasquan, the president of the Society and John D.Maczuga, Planner and Engineer, of Bay Pointe Engineering Associates, Inc., 304 Hawthorne Ave. Pt. Pleasant Beach, N. J., were sworn in by Mr. Byrnes.

Mr. Brown testified he has been a member of the Historical Sociey for 5 years. He was born and raised here, went off to college

and returned and is now retired here 10 years ago. He testified the Society was established to discover, collect and preserve information that might help to illustrate the history of Manasquan and the surrounding territories. We assumed title to and provide preservation of such materials so that any one that wants to may be able to examine them and research these items. The Society also cooperate with the Boro officials and other historical societies and local groups to insure the preservation of the records and they undertake the preservation of historical buildings, monuments and markers.
Until the disasterous fire in late April of 1996 which destroyed the railroad station in which the society maintained headquarters and a museum. They had most of their materials there. They were looking for a historical site and the Reed house is one of the buildings. The Reed family felt that they wanted to keep the house as a historical item for the community and offered the Society a chance to purchase it.
The deed has been traced back as far as 1812, and the first transfer they were able to find was from John and Ann Baily to John Jr. Baily in 1812. There were 15 transfers recorded and 3 were from the same person to the same person. Essentially all the transfers have been from the Baily family to McKnight for a short period of time and then to the Osborn Curtis family, to the Voorhees family for 20 years and then back to the Baily family and then in 1921 to the Reed family.

The construction in the older part of the house, which is the back part was probably built before the turn of the century, probably the late 1700's. Photos submitted showed the way buildings were built then compared to now. Red brick was used as insulation between the walls. This building is probably one of the 37 original homes listed in Monmouth County. If this building was left unattended it would probably fall down.

Mr. Brown stated if granted the building would become a historical landmark, people would be able to go through and see what it was like itself and it would also be a depository for some or all of the artifacts we have saved from the fire and hopefully a lot of the records we have saved also. It will be open to selected people by request during general working hours. They also hope the building will be available for regular meetings of the society which takes place the second wednesday of each month for approximately 1½ to 2 hours, except for August when they don't meet. They do not intend to have hours open to the public on regular basis.

Mr. Henderson stated the only thing he is asking of the Board tonight, is if they have some guidance for us. We want to cooperate, but we're not quite sure what to cooperate with and there is no guidence in your ordinance.

John Maczuga, Engineer and Planner from Bay Pointe Engineering Assoc., came forward and addressed the Use Variance Criteria. He testified the area is a mixed area and quite unique, mostly old homes. The dimensions of the property are 104.6 ft. frontage along South St. and approximately 222 ft. of depth over 2200 sq. ft. over a half acre of land. Side setback on north side is 28 ft. and almost 42 ft on the south side and a substantial area behind the existing structure back to the barn and shed area on the property. There is a lot of old vegetation along the rear and side. The property is located in the R-2 Zone and is in exess over 4 times the required minimum lot size required. Mr. Maczuga testified the area has a unique historical character of their own as part of the the Boro's history. There is clearly a historical significance and the granting of the application and the granting of the use variance that has been requested will promote the preservation of the historic site, that may otherwise be left to deteriorate and or be removed and replaced by more modern structures.

The application was amended to include the front steps. The total square footage of the house and barn was calculated as around 2000 sq. ft..
Mr. Burke opened the meeting to the public.
Warren Mulhall, 15 Iroquois Rd. came forward and was sworn in by Mr. Byrnes. He stated he is under the understanding this is a preliminary hearing tonight, Mr. Burke responded no, it can be decided tonight unless the Board determines it has to extend for another month, otherwise it will be heard tonight.
Mr. Mulhall is concerned about the parking in the rear, how far back will it go, also the lighting. Mr. Burke stated as far as parking and lights, that will be taken up at a future date, when this Board hears site plan approval for a final site plan on this particular property. There will be no approval for lights tonight.

Christine Danish, 111 South St. was sworn in by Mr. Byrnes. She stated the people in the Sociey are friends and neighbors in the area and town and I live right next door to the Reed house. Being next door there has been a lot of construction, sanding the siding, the dust was blowing all over, but above all I am concerned about the lighting and parking. It's a residential area, it's an area primarily families live there. People interested in what they are doing are walking on my property, which is private property. To think they are going to black top and lights being put in, is very disturbing. Any thing the Board can do to help us will be appreciated.

Mr. Henderson satated the Society does not want to put in asphalt nor do they want a lot of parking. The only reason we put in for a site plan is to get some imput from the Board and the neighbors, to tell us what they want and don't want.

Mary Lou Moriarty, 28 Iroquois Rd, was sworn in by Mr. Byrnes. She stated she resides to the back of the barn area. She is also concerned about the following issues - parking and lighting. She is also concerned about putting black top in the rear for parking.
Duane Danish, 111 South St. and John Mullery, 32 Iroquois Rd. were sworn in by Mr. Byrnes. Both had concerns about the parking and lights, and the walk through from Iroquois to South St..
Mr. Brown stated the property was purchased on July 24, 1997.

A motion to close the public portion of the meeting was made seconded and followed by the following vote: "YES" R.Lloyd, T.J.Coan, J.Miller, J.VanStolk, M.Kazenmayer, J.Burke.

Mr. Burke stated, what the Board is being asked to vote on tonight, is a use variance with primarily 107-9 one family zone not a permitted use, and also a front yard set back violation.
He suggested to the board, that if there is a vote in the affirmative that the Board also stipulate that this Board or if there is a future joint board, that the jurisdiction be transferred to them, but this Board hold this jurisdiction over this application for any future site plan or expansion etc. of the property.
Mr. Byrnes stated to Mr. Burke, that in regards to your comment about this board retaining juristiction, certainly that's a condition that can be put into any resolution, as far as retaining jurisdiction for a potential Land Use Board that may be in the future, wouldn't it be obvious that if there is a Land Use Board, it will be the only Board in this town, and they would have jurisdiction.

Mr. Henderson stated there will be no public access to this property, except for members only, until a site plan is taken up with the Board. Mr. Henderson stated before and in connection with a site plan application, we might schedule a meeting with the neighbors at the site to explain what is proposed.

A motion for a favorable resolution for the Historical Society with the stipulation of adding a front yard setback and the Board retain juristiction over a Site Plan application, was made by J.VanStolk, seconded by M.Kazenmayer, followed by the following vote: "YES"- R. Lloyd, T.J.Coan, J.Miller, J.VanStolk, M.Kazenmayer and J.Burke.

A motion for a 10 minute recess was made, by J.VanStolk, seconded by M.Kazenmayer and unanimously carried at 9:40 p.m..

The Board returned from recess at 9:50 p.m. with the following roll call: R.Lloyd, T.J.Coan, J.Miller, J.VanStolk, M.Kazenmayer, J.Burke, R.Brittle.

APPLICATION - 29-97 - Joseph DeGenova & Donna Perez-54 Iroquois
Mr. Byrnes marked the Board's file as A-1 thru A-9 Photos were marked as A-10A to 10D.
Owner wishes to add second floor to existing dwelling. R-2 Zone.
This application was denied for the following reasons:
107-27 - Front Setback - 25 feet required, 21.7 ft to front of house (17 ft. to front porch). Side Setback - 5 feet required, 3.8 feet existing and proposed. And any other variance the Board may deem necessary. Not a Flood Zone. HARDSHIP VARIANCE.

Donna Perez, 54 Iroquois Rd. and Joseph DeGenova, 54 Iroquois Rd. were sworn in by Mr. Byrnes. There were no witnesses.

Donna Perez testified they purchased the property on January, 24, 1997. Mr. DeGenova testified they want to add a second floor on the house as the house is very small. Photo A-10D is a picture of what they would like the house to look like. A-10B and C is what the house looks like now. All the houses are in line on the street. There is an easement on the driveway between the neighbor. There is a curb cut across the whole driveway. The second floor will have one big room, a bath, closet and a deck. The house will be resided with vinyl siding.

Mr. DeGenova testified, the house is a big eye sore and it will make it much nicer looking for the neighborhood and increase the value of the neighborhood. It will not block air or light to the neighbors.

A motion to close the public hearing was made by N.Hood, seconded by J.VanStolk, followed by the following vote: "YES"- R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

A motion for a favorable resolution was made by J.VanStolk, seconded by N.Hood, followed by the following vote: "YES"-T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

APPLICATION - 35-97 - Joseph Rufulo - 104 McLean Avenue.
The Board's file was marked as A-1 thru A-12 by Mr. Byrnes.
Owner wishes to elevate house to create a new first floor under existing and construct additions. R-1 Zone
This application is denied for the following reason(s):
107-27-Front Setback - 25 feet required, 14.65 feet proposed.
Maximum Lot Coverage - 35% maximum allowed, 40.6% proposed.
107-23.3 - Curb cuts in residential zones. No curb cut shall exceed 12 feet. Not more than one curb cut permitted. The applicant already has one curb cut of 25 feet on Lake Avenue. A second curb cut of 20 feet on McLean Avenue is proposed.
A-5 Flood Zone - Construction must comply with flood regulations.
HARDSHIP VARIANCE. And any other variance the Board may deem

necessary.
Mary Rufulo, 29 Brant Avenue, Clark and Joseph Rufulo, 29 Brant Avenue, Clark, N.J., were sworn in by Mr. Byrnes.
Mr. Rufulo testified he has owned the property for 9 or 10 years and is used principally for a summer home. He testified they will be retired soon and would like moving here for good. The house is small and we would like to enlarge it. They decided to go up with the house instead of going out on the sides. The house will be a bi-level with the entrance on the side. The steps will be on the left hand side of the house with a one car garage. The front of the house will be brick and aluminum siding on the rest of the house. We are planning to make it an attractive addition to the neighborhood, such that it will improve the property values. It will have no impact on light and air on the neighbors. Mr. Rufulo testified page 3 of A-7 is showing the first floor of the property as it is now.
Page 2 is what the first floor will look like when it is raised up to be the 2nd floor. The garage in the rear which is on Lake Avenue will remain there. It is single floor and will be used for second car and storage. The deck will be behind the kitchen and the deck is approximately 12 ft. wide.
Mr. Rufulo testified the room behing the garage would be used for future expansion in the house. At the present time the only interest is to have the TV room down stairs. There will be a door behind the TV room leading outside. There will be steps coming down into the yard from the upstairs deck.

The Board had a concern about the 20 ft. curb cut in the front. Mr. Rufulo would have no problem making the curb cut in the front to 12 ft..

James Flood, 110 Lake Avenue, came forward and was sworn in by Mr. Byrnes. Mr. Flood testified he is directly across from the back of the applicant. His main concern is the curb cut in the back and the garage in the back. His concern is that the garage in the rear will become an apartment, being he will have a garage in the front.

Mr. Rufulo testified there is only electric in the back garage and the switch to turn the light on is in the house. There is no water hook up out there.

A motion to close the public portion of the meeting was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES" R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

A motion for a site inspection for Saturday October 18, 1997 at 9:00 a.m. was made by N.Hood, seconded by T.J.Coan, followed by the following vote: "YES"- R.Lloyd, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

Mrs. VanStolk asked Mr. Rufulo if he had any intentions of putting a kitchen in the botton level. Mr. Rufulo testified no he had no intentions of doing that.
Mr. Rufulo waived the time limit.

A motion to continue the Rufulo application to November 19, 1997 was made by J.Miller, seconded by R.Lloyd, followed by the following vote: "YES"- R.Lloyd, T.J.Coan, J.Miller, N. Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J.Burke.

RESOLUTION - 33-97 -Robert & Ann Battista - 480 Brielle Rd.
The resolution was read by Mr. Byrnes.
A motion for approval of the resolution was made by N.Hood, seconded by M.Kazenmayer, followed by the following vote: "YES" - T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, M.Kazenmayer, J. Burke.

OLD/ NEW BUSINESS

Every Board member was given a list of the applications that have come before the Board in 1997. Mr. Burke would like the members to list the applications they would like to check on to see how they are progressing.

Mr. Hood would like Mr. Byrnes give the Board case law on what he ruled on tonight as far as a board member cannot do any research law. Mr. Hood would like to see case law on that.

A motion by R.Brittle, seconded by J.Miller to adjourn the meeting at 11:55 p.m. was made and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

GH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - NOVEMBER 19, 1997, MEETING AGENDA

On Wednesday Novemaber 19, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 35-97 - Cont. Joseph Rufolo - 104 McLean Avenue

APPLICATION - 37-97 - Michael & James Constantinou -
95-99 Atlantic Ave. (25 N. Main St.)

RESOLUTION - 36-97 - Squan Village Historical Society, Inc.
105 South Street

RESOLUTION - 29-97 - Joseph DeGenova & Donna Perez
54 Iroquois Roa

RESOLUTION - 5-97 - Gertrude Rossetti - 50 First Avenue

OLD / NEW BUSINESS

(Work session will be conducted immediately after the regular meeting).

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
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COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - NOVEMBER 19, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on November 19, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: PRESENT - M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke
ABSENT - M.Kazenmayer, R.Lloyd,

A motion to approve the minutes of October 15, 1997 was made by J.Miller, seconded by J.VanStolk, followed by the following vote: YES - J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke "NO" - T.J.Coan. ABSTAIN - M.Parziale.

A motion to approve the special minutes of October 15, 1997 was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES" - J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke. "NO"- T.J.Coan. ABSTAIN - J.Parziale.

For the record, R.Lloyd arrived at 7:35 P.M..

The approval of the minutes of July 24, 1997 was put off until later on.

APPLICATION - 35-97 - Cont. Joseph Rufolo - 104 McLean Avenue
Mr. Keith Henderson put himself on record as Attorney for the applicant.
A site inspection was done by the Board on October 18, 1997.
A request for a rear elevation measurement was not done by Mr. Rufolo, as he forgot. Mr. Henderson stated as they move on he may be able to stipulate and apply one afterwards.
Mr. Byrnes in summarizing stated the applicant agreed that the driveway in front will be constructed with some kind of impurvious paver, agreed to a 12 ft. curb cut on McLean Ave. and stated there was no intention of installing a second kitchen in the dwelling. We also heard testimony from Mr. James Flood.
A set-back survey of the block was marked into evidence as A-13, from Mr. O'Malley dated 11/19/97.
Mr. Henderson stated there was some discussion about the lot coverage variance, and he stipulated regardless of whether converting the front drive to purvious material as opposed to impurvious material, cuts us back to the maximum allowed, we will stipulate it will not require a variance for that reason and we will take what ever steps are necessary to do that.
The two driveway cuts, one on McLean and one on Lake, his client is not prepared to give up either one of those requests, we are prepared to take the existing [illegible]

is 20 ft., we are willing to cut that back to the width of the rear garage which is 16.2 ft. which will allow some relief and allow ample off street parking on the site.

Mr. Hood's concern was with the front set-back. Mr. Rufolo testified he is not bringing the house itself out, he is staying within the existing set-back of the house itself, The only part of the house that would come out further than the existing house is the box windows, which will not come out further than the steps.
For the record, Mr. Parziale was not here at the previous meeting and did not listen to the tapes, therefore he will not be voting on this application.
The Board's concern was the two curb cuts.
Mr. Rufolo testified he purchased the property January 1988, the land and the building.
If a favorable vote is given tonight, a rear elevation will have to be shown. If pavers are done in the front, there will be no variance for lot coverage.

A motion for a favorable resolution by J.VanStolk, with the stipulations that the 12 ft. curb cut on McLean and the 12 ft. curb cut on Lake Ave., no kitchen in the downstairs area,and the driveway on Lake Ave. be cut back to 16 ft. seconded by J.Miller, followed by the following vote: "YES"- J.Miller, N.Hood, J.VanStolk, R.Brittle. "NO" - T.J.Coan, J.Burke, ABSTAIN - R.Lloyd.

A motion for a 10 minute recess was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES"-R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke.

The Board returned from recess at 8:40 p.m. with the following roll call: R.Lloyd, M.Parziale, T.J.Coan, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke

Mr. Hood was recused from sitting in on the following case. Mr. Burke stated Mr. Coan has been elected an official of the Borough, and the legal counsels have determined that Mr. Coan should not start any new cases this year. We would like to thank Mr. Coan for his service to the Borough. Mr. Byrnes thanked Mr. Coan for his service on this Board, although it has been less than a year, it has been a very interesting year and good luck on the Council.

APPLICATION - 37-97 - Michael & James Constantinou-95-99 Atlantic
A motion to approve the minutes of July 24, 1997, was made by J.Miller, seconded by M.Parziale, followed by the following vote: "YES" - R.Lloyd, M.Parziale, J.Miller, J.VanStolk, R.Brittle, J.Burke.

Mr. Burke pointed out to Mr. Costa, that being this is a Use Variance and we do not have a full board present. We do have one missing board member tonight who could vote on this if she was her, so there is a possibility of having a full 7 person board. You need 5 affirmative votes, do you want to proceed tonight with the 6 of us or would you like to wait to a future date, when you migh have 7. If the town disbands this Board and forms a joint Board, that joint Board will contain members of the Planning Board and those members of the Planning Board will probably be deemed ineligable because this case stareted before the Planning Board 6 years ago, and we may have to reinstate the Board of Adjustment just to hear your case. We would rather do it tonight, but as a courtesy we always discuss this with the Attorney and applicant. Mr. Costa said they would proceed.

Mr. Byrnes marked the Board's file as A-1 to A-8.
Owner is raequesting a Use Variance to operate a "Fast Service" restaurant (Dairy Queen) at 95-99 Atlantic Avenue. B-1Zone
This applicantion is denied for the follwoing reason(s):
107-13 - A "Fast Service Restaurant" is not a permitted use in the B-1 Zone. 107-36 - Off Street parking
Required for Retail Uses - 18 Spaces, Required for Fast Service Restaurant - 9 spaces. Total required 27 spaces, Total Provided 19 spaces. NOTE - The Planning Board granted a variance as to the number of parking spaces as part of the original resolution approving the site. And any other variance the Board may deem necessary. USE VARIANCE. Not a flood hazard area.

Theodore M.Costa, put himself on record as Attorney representing the applicant.
Christine Constantinou, 48 Woodlake Dr. Marlton, N. J., James Constantinou, 105 Tunesbrook Drive, Bricktown, Michael Constantinou, 48 Woodlake Drive, Marlton N. J., Joel Schlesinger, 3 Spruce Ct. Highland Lakes, N.J., President of Dairy Queen Enterprises of N. J., were all sworn in as witnesses by Mr. Byrnes.

Mr.Costa gave a brief overview of the application before giving any testimony. He stated some information will be repeated as before, simply for the record. We have before us an existing Dairy Queen Ice Cream Parlor, that has been there for several months. We are coming here today for a Use Variance because of a determination by this Board at a prior meeting, that the Planning Board was in error in allowing the Dairy Queen permit to be issued, without first getting a use variance. The mistake was very reasonable, because it was a gray area in legal issues as to whether the Dairy Queen facility as it exists is a restaurant or not. The Building Inspector at this last meeting before this Board did give the opinion that in his opinion the Dairy Queen as it exists is not according to the building codes a restaurant, because it didn't have public bathrooms. He stated

the B-1 Zone in this town, does allow restaurants, it allows eating and drinking facilities. What it doesn't allow in the B-1 Zone is Fast Food or Drive-in Restaurants. A fast food restaurant would be somthing like a Mc Donalds, who have a drive through and a high volume of business. We have here a Dairy Queen that doesn't have public bathrooms or a drive through, it is just a modest ice cream parlor. Back on January 16, 1997,the town did issue a permit for a construction of a Dairy Queen facility. After the cease and desist order was issued, the Planning Board did address the matter and finally came to a conclusion that the Dairy Queen was not prohibited by the local ordinances, and therefore the cease and desist order was lifted, on March 26, 1997 by the Building Inspector. Mr. Kenny did file an appeal of that lifting of the cease and desist order, which was held timely, even though it was filed more than 20 days after and therefore that is the matter it came before this Zoning Board, the issue is whether a use variance was indeed necessary to have this Dairy Queen zoned B-1

Michael Constantino came forward as one of the owners of the Dairy Queen. He testified his brother James Constantino is part owner.There are 3 stores, the Mini Mart, Dairy Queen and a Dry Cleaners. Michael testified, he checked the public records and the Haagan Dasz ice cream store in the railroad plaza did not have to obtain a use variance. There is also another ice cream shop on Main St. (Candy Kitchen) and they are also in the B1 zone. He testified, there is no difference between the other two ice cream stores and the Dairy Queen, in the way the product is served. Mr. Constantino stated before they bought the property, there was an old service station there with 4 or 5 entrances into the lot. He testified we have improved the property greatly, it is a benefit for us to be there. We put in shrubbery, a parking lot and a clean operation. It's a new block building, cost a lot of money to build, and we did every thing the Planning Board recommended. We also put in a bike rack, which they recommended, as it was so close to the Bicycle path. Our busiest time is after dinner, which is after rush hour. We are going to close probably in December as it is a seasonal business. There are spaces for 19 cars - 23 required, but there is ample parking across the street.

Mr. Byrnes stated Mr.John Garrity - Traffic Safety Officer from the Manasquan Police Department is here to testify as a witness for the Board of Adjustment. Sergeant John Garrity, Manasquan Police Department was sworn in by Mr. Byrnes. He testified he is the senior traffic safety officer for the Manasquan Police Dept., has had extensive background in training to include accident investigation, accident construction and motor vehicle law. He has held the position since 1981.
Sergeant Garrity testified he doesn't have any data as to volume of traffic on that corner, as he didn't have time to do a study. As far as accidents back to 1995, on or at that area, there

were 3 accidents, resulting in no injuries, in 1996 there were 9 accidents resulting in 5 injuries and too date this year we have had 6, resluting in 5 injuries. In order to do a traffic study it would take about 4 weeks in order to do all 4 directions. He testified there was no equipment prior to the Dairy Queen being open to do that study. He testified all accidents this year have occured at the intersection, they were not related to going in or out of the Dairy Queen.

Alex Delgarno, 104 Atlantic Avenue came forward and was sworn in by Mr. Byrnes. He asked Sergeant Garrity what he would classify that intersection as a serverity of accidents, compared to any other intersection in this town? Sergeant Garrity would probably rate it about 6th. Mr. Delgarno stated that in 1993, a letter from Sergeant Garrity stated it was the most dangerous intersection in town. He wanted to know if he changed his mind on that. Sergeant Garrity said he would say it is a dangerous intersection, but not as bad since they put a traffic light there. Sergeant Garrity stated there is no parking on the North Main Street or Atlantic Avenue corners.
Mr. Burke asked Sergeant Garrity about the enforcement of signs on the property. There is a no entrance sign on N. Main St. and the entrance on Atlantic Avenue - if someone was to turn in on the N. Main St. side, would there be any juristiction by the Police Dept.? Sergeant Garrity said no, not at this time. There being no more questions of Sergeant Garrity he was excused by the Board.

Michael Constintino testified, once the town gave them the o.k. to go, all plans were approved by the Building Inspector and town attorney, then we went ahead to purchase our franchise. We had to put a franchise fee up and we started to order equipment and all the changes inside. It needed special plumbing, walk in boxes etc. The franchise fee was $15,000. and we had to put a deposit on all the equipment that was ordered.

James Constintino came forward stating that they had to inform the Board of Health for the chilling systems and that was a great expense. One machine cost about $13,000. and there were 2 of them, a walk in box which cost about $8,000. and that's not including all the plumbing and electrical work that goes behind that. The tile floor was very expensive, also all the counters had to be purchased, every thing the Dairy Queen required.
Michael and James testified, they have never seen the parking lot over flowing at any time. The town made a stipulation that there are to be no tractor trailers on the property at any time. James testified the Dairy Queen only has 2 small trucks coming twice a week. Ice cream delivery truck is a Welsh Farms truck, and he is there 10 minutes at the most twice a week and parks in the back where the loading dock is and the other vendor for paper supplys comes once a month.

Mr.Joel Schlesinger, President of Dairy Queen enterprises of New Jersey came forward. He is supervisor of 90 stores in N. J.. There are 2 types of stores, one is a straight Dairy Queen, just ice cream and the other is a braiser, which is generally a bigger store, seating, drive through if possible, and most are in the 2500 ft. range and free standing buildings. He stated the Constantino's store would be considered a straight Dairy Queen. He stated the store is very clean. Dairy Queens are the number 2 purveyor of hot dogs in the country. It is more of a convenience item for customers, half of the 90 stores have hot dogs. Mr. Schlesinger stated they are trying to build a kids business through premiums, like star track toys. We did a promotion this year with Nickleoden that was probably the biggest kids promotion we ever did. There is realy no way to sell kids meals without hot dogs.

Paul Szymanski, Planner consultant for the Borough, asked Mr. Schlesinger, a store like this, in the town of Manasquan, can you estimate the number of customers, that a store like this on daily basis, during the peak hours, as those are the real questions. Mr. Schlesinger calculated on a peak day, the transaction could be 400 transactions a day, which he hopes they can grow to that. This figure is for a weekend, and most of that would be between the 7 and 10 P.M. time period. Being this store is in a school district, I'm not claiming that this would be walking or driving transactions. Each transaction would be each ring of the register.

Susan Caulkin, 102 Atlantic Avenue was sworn in by Mr. Byrnes.
She stated she lives across the street from the Dairy Queen.
For the record the Board or Mr. Costa does not feel there is a conflict with Mr. Byrnes and Mr. Miller being they worked for Mr. & Mrs. Caulkin at some time.
She wanted to knowfrom Mr. Schlesinger, if he had any idea of how many cakes or ice cream cones are sold. He had no answer for her. When asked if they support the stores with advertising, he answered yes. He stated they do coupons in ValPak one mailing a year, other than that the stores do their own mailing.

Mr. Costa to Michael Constantino, are you claiming that as a result of potentially, this town is stopping you from operating your Dairy Queen, that you experienced some kind of hardship.
Mr. Constantino said yes, I invested a lot of money and I now owe a lot of money, it required a lot of capital to do this.
It is my business, I would loose a lot, I would have to sell all my equipment, and I could never get back the money for all the electric and plumbing work.
When the Planning Board approved the parking, they knew about the convenience store which is the biggest store 3400 ft. and there were two smaller stores, as testified by Michael Constantino. At the time I said a Real Estate and an Accounting office, as my brother is in Real Estate and I'm an accountant,

but I really didn't know for sure. It was never a part of the condition. There was a condition set up, since the convienent store was a higher count for traffic, they wanted to have 2 smaller stores for traffic, and also that all the employees park in the municipal lot across the street. The restrictions were Cafe, Restaurant and Medical office.
Mr. Szymanski stated the basic issue was the parking at that time. Mr. Szymanski stated based on occasional visual observations as he drives past the Dairy Queen, he has never seen the parking lot full, and he has been past there even in the summer and evenings.

Alex Delgarno came forward and asked Joel Schlesinger, you said 400 transactions per day, and you said 300 of these between the hours of 7 and 10 P.M., so we're looking at 100 transactions per hour? Mr. Schlesinger said yes that is right.

Mr. Szymanski, stated this is a use variance application, although in 1993 you determined this to be a fast service restaurant, might have been allowed a conditional use in the B-1 Zone, subject to certain standards. In May of 1995 when the Zoning Board was changed this kind of use was no longer a permitted use in the B-1 Zone, so for a use variance the proofs are under the statue besides all the facts you've heard tonight, there has to be a proof showing why the site is particularly suited for the property in question.
Mr. Byrnes agrees with all Mr. Szymanski said, but did not agree with his comment that it is not a prohibited use. Under the ordinance 107-13, there are permitted uses and conditional uses. Uner the permitted uses -Restaurant establishments, but not including fast food drive-in facilities. Under Conditional uses - under no circumstances should it be considered a conditional use and therefore the criteria for a conditional use, which is somewhat less than a regular use variance would not apply here. It's obviously not a permitted use and the way I read it under the ordinance it must be considered a prohibited use. As we all know, it's not a drive in but it is a fast food facility. If the Boro had given us a definition of a restaurant maybe none of us would be here, but they haven't and that's the problem we are trying to solve.

Mr. Costa said on the positive criteria, we have improved the aesthetic's of this area, as it was an eyesore, even the neighbors testified on that. When you look at the addition that is there, it's a nice blend of services to add to the community. As far as negative criteria the biggest legal hook the Constantino's can hang their hats on is the hardship. After all, the town actually mislead them into believing they had certain approval of the permits. The permits were issued for the establishment. It's already zoned for B-1, it's already zoned for retail food products. The applicants have already invested their life savings into this project. I believe

the positive and negative criteria have been met.
James Constantino said the positive criteria is the aesthetics, it's a clean operation, complements the neighborhood by the bike path, kids don't have to cross the steet to get ice cream, it complements the other stores, it's a clean family run establishment.

Mr. Burke and Mr. Miller don't believe they have met the positive criteria yet.

Peter Kenny, 38 N. Main St. was sworn in by Mr. Byrnes.
Mr. Kenny stated in looking at the Haagen Daze establishment and candy kitchen, he wanted to know if there was off site parking at these establishments? Mr. Constantino said there was off street parking at the candy kitchen, but he didn't think there was any at the Haagen Daze. Mr.Kenny asked Mr. Szymanski if it was a trade off, or taking away a specific uses to give allowances for less parking spaces allowed, and what do you think it was in this case? Mr. Szymanski said it wasn't a trade off, it was a recommendation that I made not only on this matter but also initially on the Station Plaza application, that because of the way what was being proposed, the number of cars, I recommended that they be limited from having restaurants and offices as occupants of the stores beacause of greater parking requirements. I made that recommendation and that's what the initial resolution includes.

Mr. Kenny said "the town of Manasquan has put myself and my neighbors in a hardship roll. I have expended many dollars, I feel for their cause and I feel for the position they are in. I also feel very strongly that if they had an attorney that knew they were putting every thing in this, that he should bear some responsibility in this. I think the town did make a mistake, but it does put a hardship on us as well as the Constantinous, and I do feel that the Boro of Manasquan alone is not at fault".
Mr. Kenny said " his house is set back and one house down across from the Dairy Queen. He spends a lot of time outside in the summer months and I hear increased foul language, I hear a lot more traffic, very loud music, garbage (wrappers, papers) on his lawn". Mr. Miller wanted to know if the Dairy Queen was eliminated, would that lessen the traffic congestion in your estimation, would it lessen the foul language, the garbage in front of your house? Mr. Kenny answered yes.

Mr. Byrnes repeated the law for the Board -"under this type of variance, in addition to meeting the negative criteria, the applicant must show a positive criteria, and it is the same 16 ennumerated catagories that we have always dealt with up here. Under the Supreme Court decision of 1990 -Burberich vs Minehill Township, that there are sufficient special reasons for the grant of a variance of this type, where a proposed

project carries out a purpose of zoning which is in the 1 to 16 catagory, or their refusal to allow the project would impose on the applicant an undue hardship". That is in addition to meeting the negative criteria.

Frank Caulkin stated he lived there before the Dairy Queen was put up and I realize there was one business there before, not 3. He stated he lives across the street and he can't emphasize enough what Mr. Kenny says about the language, it is coming from the cars, from the kids on the bikes. It was never there before. The applicants Mother is out there every morning sweeping up and keeps it clean, but she doesn't come over and clean up the papers in my yard. The lights shine into my front yard also back yard - it is very offensive. He stated being there is no bathroom, little kids urinate on the side of the building. People eat outside all around the cars. He stated if it was a low volume business, he would not be here.
Mr. Constantino testified, he would be willing to make any adjustments necessary, so the lighting is according to code.
Mrs. Caulkin's concern is safety and the parking. There are not enough parking spaces. She is also concerned about advertising.

Charles Plunges, 36 N. Main St.,across from the Dairy Queen. He agrees with all his neighbors concerns about the Dairy Queen, parking and trash.

Sally Walker, 37 N.Main St., directly across from the strip center, she has seen the parking lot full and it is too dangerous a corner for a Dairy Queen.

David Walker, 37 N.Main St., he agrees with his neighbors complaints and he believes safety is the issue.

Mr. Delgarno complained about employees parking on the lot and Mr. Burke told him he has to complain to the Code Dept. that is their job.

Mr. Burke asked the Board if they think they have sufficient information here tonight to make a decision on this in relation to the traffic and parking. Most of the Board felt they did not have enough information. Mr. Burke felt they have to get more information on the parking, and he would like to know how Mr. Ratz came up with the count on spaces for parking, what he based that on.

Mr. Szymanski said they have a choice, either asking the applicant to return with a traffic expert who will address those issues, or have the Board hire someone to do it and in either way have the applicant pay for the expense.

Mr. Costa said they would like the opportunity to bring a traffic

expert before the board and will consent to an extension of the meeting to December 17, 1997.
Mr. Burke stated, right now your case hasn't been proven, we need more information from you on the parking and better proofs.

A motion and a second to continue this application to the December 17, 1997 meeting, followed by the following vote: "Yes"- R.Lloyd, Parziale, J.Miller, J.VanStolk, R.Brittle, J.Burke.
Mr. Costa waived all time requirements.

RESOLUTION - 36-97- Squan Village Historical Society, Inc.
105 South Street.
The resolution was read by Mr. Byrnes.
A motion by J.Miller seconded by J.VanStolk, for a favorable resolution, followed by the following vote;"Yes"- R.Lloyd, J.Miller, J.VanStolk, J.Miller.

RESOLUTION - 29-97 - Joseph DeGenova & Donna Perez-54 Iroquois
Mr. Byrnes read the resolution.
A motion by J.VanStolk, seconded by N.Hood for a favorable resolution, followed by the following vote: "YES" - J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke

RESOLUTION - 5A-97 - Gertrude Rossetti - 50 First Avenue.
The resolution was read by Mr. Byrnes.
A motion for a favorable resolution was made by J.Miller, seconded by R.Brittle, followed by the following vote: "YES"- J.Miller, J.VanStolk, R.Brittle.

All bills were signed by Mr. Burke.

Mr. Hood requested the Board to go into executive session on personal matters.

A motion and second was made to adjourn the meeting at 12:40 A.M. and unanimously carried.

Respectfully submitted,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

732-223-0544
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COLLEEN SCIMECA
Municipal Clerk

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

MANASQUAN ZONING BOARD OF ADJUSTMENT
MEETING MINUTES - DECEMBER 17, 1997

The Manasquan Zoning Board of Adjustment held their regular meeting on December 17, 1997 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Meeting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: PRESENT - Ronald Lloyd, Michael Parziale, J.Miller, Noel Hood, Joanne VanStolk, Robert Brittle, John Burke.

A motion to approve the minutes of November 19, 1997 was made by J.Miller, seconded by J.VanStolk, followed by the following vote: "YES"- R.Lloyd, M.Parziale, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke.

APPLICATION 38-97 - Michael & Joanne VanStolk-440 Cedar Avenue
For the record, Joanne VanStolk being a member of the Board will step down for her own application.
Mr. Burke was called out for a phone call, Mr. Brittle took over the meeting.
Mr. Byrnes marked the file as A-1 through A-11. Mrs. VanStolk has recused herself as she is a member of this Board.
Michael A.VanStolk, 440 Cedar Avenue and Paul Lawrence,Architect with Richard Grasso Associates, Manasquan, were sworn in by Mr. Byrnes. Mr. Lawrence a N.J. licensed architect for the last 4 years. Mr. Burke the chairman has returned to the Board.

Mr. VanStolk testified they are trying to add a little spaace to bring the family living room into one place. Currently they have a small play room downstairs which is away from the family living area. They are trying to convert their existing exterior back porch off the kitchen making that family living area.
The existing porch as is there is no room for a couch. They will move the washer and dryer from the garage area, we would enclose the lower portion of the porch and leave it unheated.
We are asking for the right to extend the existing foot print a few feet so that the logical place for a family room, would actually be large enough for a family room.

Mr. Lawrence testified, they are basically trying to increase the living area. We are going out the back 4 feet creating a sun room on the first floor, a larger living, dining, kitchen area on the second and a family room and study on the half floor to the west side. On the first floor they are creating a new foundation in the rear to support the second floor that is being expanded out. The second floor they are trying to maintain as must of the first floor in it's existing form and only adding to it. The bedrooms as they are laid out are all existing the

bath at the west side to the back is existing, the living room on the south east corner is existing, the kitchen is existing. The new construction is centered upon the rear portion of the building. The half story above that is all new. They are reconstructing a good portion of the roof on the 1/2 story to gain a standing room at that level. There will be a 3 ft. deck on the back of the addition.

Mr. VanStolk testified he purchased the property in 1991.
Mr. VanStolk amended the denial on the side setback from 5ft. required to 4.8ft. existing. Mr. Burke stated if there is a favorable resolution tonight, there will be a stipulation that the site plan will have to be changed to go along with the numbers that appear on the 1991 survey.

A motion to open the public hearing on VanStolk, was made by R.Brittle, seconded by M.Parziale, followed by the following vote: "YES"- R.Lloyd, M.parziale, J.Miller, N.Hood, R.Brittle, J.Burke.

A motion for a favorable resolution with the stipulation that a new site plan be produced, was made by J.Miller, seconded by N.Hood, followed by the following vote: "YES"- R.Lloyd, M.Parziale, J.Miller, N.Hood, R.Brittle, J.Burke

APPLICATION - 39-97 - Paul Koyce - 127 Second Avenue.
Mr. Byrnes marked the board's file as A-1 through A-12
Paul F.Koyce, 74 Mountain Lane, Morris Plains, N. J. was sworn in by Mr. Byrnes.
Mr. Koyce testified he would like to have a dining area and 2 additional bedrooms in the rear, making 4 bedrooms. He purchased the house in 1989. He is looking to expand the rear of the foundation that was put in in 1991. He is not violating any lot coverage, height violation - the only reason he is here is because of the two variances that are pre-existing.
Albert P. Ratz, Jr., Construction Official for the Boro was sworn in by Mr. Byrnes.
Mr. Koyce amemded his application to include a request for variances for the rear and side yard setback violations for your accerssory structure under section 107-27 Schedule I footnote G. Mr. Koyce purchased the property on Jan. 3, 1989, both the land and structure. It will not affect light or air to his neighbors.

A motion was made to close the public portion of the meeting, seconded and unanimously carried.

A motion for a favorable resolution was made by J. Miller, seconded by J.VanStolk, followed by the following vote: "YES"- R.Lloyd, M. Parziale, J.Miller, N.Hood, J.VanStolk, R.Brittle, J.Burke.

A motion for a 5 minute recess at 8:55 p.m. was made by J.VanStolk, seconded by J.Miller and unanimously carried.

The Board returned from recess at 9:05 p.m. with the following roll call: R.Lloyd, M. Parziale, J.Miller, J.VanStolk, R.Brittle, J.Burke.
For the record Mr. Hood has recused himself from this application.

APPLICATION - 37-97 - Cont. Michael & James Constantinou-
95-99 Atlantic Ave. (Dairy Queen)
Mr. Byrnes stated this matter was first heard on November 19, 1997, we heard testimony from both applicants, as well as Sergeant John Garrity, Traffic Safety Officer - Manasquan Police Dept. amd from Paul Szymanski, the Boro Planner, also Mr. Joel Schlesinger, President of Dairy Queen Enterprises of N.J..
We also heard testimony and comments from a number of citizens including Susan Caulkins, Frank Caulkins, Alex Delgarno, Peter Kenny, Charles Plunges, Sally Walker and David Walker. There were certain stipulations that were entered into and agreed upon, including that all exterior lighting for the entire complex will be up to code and any adjustments that need to be made will be made, also a stipulation that all cardboard waste material will be kept inside the outside trash enclosures and will not be stacked up on the outside next to the trash bin.
The Board made a request for additional information from the applicants in regard to the issue of traffic studies, and parking and also had an inquirey as to Construction Official Ratz and how he had calculated and arrived at the need for a total of 27 spaces required for this property, which is located in the B-1 Zone. A reminder, this is a use variance application.
We did receive a letter from Mr.Costa, the applicants Attorney dated December 11, 1997 which was marked as exhibit A-9 for identification.

Mr. Byrnes swore in the following witnesses - John H. Rea, President of McDonough and Rea Associates, Traffic and Transportation Consultants - Hwy. 35, Wall, N.J.and Brian McMullin, Dairy Queen store owner.

Mr. Burke stated we are here tonight to hear testimony on the traffic and parking. There will only be comments on new testimony tongiht.

Mr. Albert P.Ratz, Jr., Construction Official for the Boro, was sworn in by Mr. Byrnes.
He testified he determined the number of parking spaces for this property. The Deli space is 3,420 sq. ft. required 11.4 or 12 spaces. The Cleaner was 1710 requiring 5.7 or 6 spaces, the Dairy Queen being defined as a fast service restaurant requires 1 space for every 2 seats, there are no seats, so he

couldn't use any data on that, 1 for every 2 employees and 1 for every 3 takeout service patrons, estimated at peak hour periods. He testified he didn't have any information on what those estimates would be, so he referred back to the restaurant requirement, 1 space for every 200 square feet of gross floor area, which came up to 9 spaces. There are 19 space provided.

Mr. Costa stated that Mr. Schlesinger asked another person who has 2 Dairy Queen's himself to comment on traffic at a Dairy Queen. Mr. McMullin is here tonight.
Mr. Costa read a letter from Mr. Schlesinger, who was not able to be here tonight, as he has Chicken Pox. The letter was marked as A-10 into evidence, as an introduction to Mr. Mullin who is here tonight.

Mr. McMullin came forward and testified he owns 2 Dairy Queens in Middletown, N. J.. They are both on Highway 3 35. He has owned one since 1994 and one since 1997. The one since 1994 is in a shopping center, approximately 1200 sq. ft.. There are stores on both sides of his store. He testified his peak volume times are between 7 and 9 at night between May and July. The applicants store is very similar to his store in size. He testified he researched for about 5 years, whether to go into a free standing store or a strip center store. The reason he did his first 2 stores at strip centers, where his third one is going to be free standing, as he wanted to get his feet wet. Everyone that had a strip center store did low volume typical Mom & Pop operation, everyone that had free standing had high numbers. He testified on a strip center store your not going to get more than 50 people through the door during peak hours and that's on a hot summer night at 90°. Over 3 years he has spent over $10,000. advertising trying to get bigger sales, and it showed no increase on sales. He testified his store in the Middletown shopping center is about 2400 sq. ft., it has seating, a public bathroom, it's open from 7 A.M. until 10 P. M., lunch and dinner. He has worked in about a half dozen other stores. All top standing Dairy Queen stores are free standing.
Mr. Costa offered Mr. McMullin as an expert witness in the area talking about volume generated by Dairy Queens.
Mr. McMullin testified what he was doing in his stores in 1995, is about the same volume the applicants are doing in their store.

Mr. Ratz testified, he doesn't think this is a restaurant as it doesn't have restrooms and seating.

Mr. Rea came forward stating he is a licensed engineer in the State of N.J., N. Y. and Pa.. His specialty is traffic engineering. Has been employed in that field for the last 23 years, 10 years in public sector, 13 years in the private consulting sector in the state of N.J.. He has been accepted

as an expert in the field of traffic engineering.

Mr. Rea testified he is familiar with the property in question. He is here to point out what constitutes a restaurant to a traffic engineer. One is a quality restaurant which is a sit down restaurant where there is a lounge a liquor license where people spend longer than an hour, which is not the catagory in which the Dairy Queen fits in. Two is a high turnover sit down restaurant, which is typical of a Dennys, Pizza Hut, where the average length of stay in this type of restaurant is 45 minutes to an hour, there is seating, restrooms, clearly this doesn't fit the Dairy Queen. Third catagory is a fast food restaurant, which is typical of a McDonalds, Burger King, Wendy's and again those restaurants do have seating, restrooms, it doesn't quite fit what the Dairy Queen is. He stated when you break down the parking for these strip centers, you don't necessarily break down every use that's in the center and say o.k. the convenience store needs X number of parking spaces,the Dairy Queen needs X number and the Cleaners need X number of parking spaces. If you looked at everyting seperately, you's come up with a very high parking demand which quite frankly would cause you to overbuild prking lots all across the state.
The Dairy Queen will generate more parking during the peak hours of 7p.m. to 9 p.m. and during the 2 summer months. The convenient store will generate more parking during the morning hours commuting hours, lunch hour and during the afternoon house when people are coming home from work. None of those peak hours coincide with the peak hours of the Dairy Queen. He testified the Dairy Queen wouldn't be a use that he wouldn't expect in a small strip center. He testified, in his mind it is not a restaurant, it doesn'tgenerate any where near the amount of parking and traffic that a fast food restaurant like McDonald's would generate. He testified he believe's the parking for this application is adequate.
Mr. Miller read the Codeand Mr. Rea, stated that the code should be rewritten, as this is not a fast food store.

Michael Constantinou testified he and his brother have invested $ 143,000. in this project. Mr. Costa stated the brothers had a petition signed and one of the questions, was should the Dairy Queen stay open at this location, and they have received over 230 names. Some people live right in the area. HE witnessed about 40% of the signitures on the petitions. Michael testified the lot has never been crowded nor has it been full to the fullest extent.

The neighbors have brought in their own traffic expert.
Mr. Burke stated at the end of the last meeting, the public session was not closed, so it does not have to be reopened.

Peter Kenny came forward asking Mr. McMullen how far away he

was from the beach. Mr. McMullen stated about 2 miles. He asked Mr. McMullen if he would be a potential invester in this kind of Dairy Queen with this parking problem. He said the parking would not bother him.
Mr. Kenny asked James Constantinou what is your hourly peak. He answered the peak is in the summer time. He said he will not advertise as much as he did this year.

Susan Caulkin, 102 Atlantic Avenue came forward and stated the testimony were for Dairy Queens on major highways, and not in residential areas.

Alex Delgarno, 104 Atlantic Avenue came forward and asked the Board- there are two things you have to cover - a positive and negative criteria. Have you covered that? Mr. Burke stated we haven't heard all the testimony yet.
Mr. Costa asked Mr. Delgarno if he owned his house. Mr. Delgarno answered no.

John Maczuga, Bay Pointe Engineering Associates, Inc. was sworn in by Mr. Byrnes. He testified he is a principal in Bay Pointe Engineering Assoc., he is a licensed professional planner in the State of N. J. for 21 years and has been active in the planning field for 25 years.
Mr. Maczuga testified he has been asked by the home owners to look at this particular application and render certain opinions relative to this application and he has reviewed the application. He has looked at the possibility of there being effectively meeting the positive criteria and there is none. He has looked at the purposes of the land use law and he doesn't see that this application promotes any of those purposes. He doesn't feel this site is particularly suited for that particular use. He feels there are no reasons that would meet the criteria for the granting of this application and the relief sought.
The negative criteria he has some concerns about the parking and the safety. He feels there is a substantial deficiency at this location, given the types of use that are in here. He stated in his mind both the Deli/Convenience store and the Dairy Queen are both high trip generators.
Mr. Costa questioned Mr. Maczuga on his testimony.

MR. Rea came forward and was questioned by Mr. Costa.
HE testified he disagreed with Mr. Maczuga on how he interpreted the institute of transporation engineers data. I've been a member of the institute of transportation engineers for over 20 years, I can tell you the statistics that he saved when he came up with this 37 spaces for parking based on this fast food definition, I can tell you from the studies, that it did not include any Dairy Queens, where you would come up with 37 parking spaces. He stated he stands by what he said before that 10 spaces is a reasonable maximum parking for this particular outfit.

Mr. Ratz stating - not being a traffic expert, he would say around 17 spaces is adequate for this site, based on the town zoning.

Peter Kenny came forward with the following comments.
His feelings towards the Dairy Queen, not only does the Dairy Queen present a hardship on both sides, he feels that for the applicants to say there is no responsibility on their part is reckless, and he feels that the town may fear based on your ruling they may get sued from the brothers on any number of damages. He said he would ask that you not consider that, the facts are in front of you, there are negative and positive criteria to meet and I would also remind you that townships are not liable for the construction officials and the mistakes that happen. He stressed yes there is a major issue of responsibilty here and there may be a law suit one way or the other, who's to say it's not for me. He really does feel a hardship, aside from the traffic and everything you've heard, he feels there has been a loss of the value of his home. He feels less safe in the neighborhood he lives in.

Charles Plungis came forward stating he hasn't seen where the Constantinou brothers have shown any reason why we should have this there, why we should grant a variance to have their store in there. He believes it is too much to have the Dairy Queen in there, it's a residential area.

A motion by J. VanStolk to close the public protion of the hearing, seconded by R.Brittle, followed by the following vote:
"YES"- R.Lloyd, M.Parziale, J.Miller, J.VanStolk, R.Brittle, J.Burke.

Mr. Costa in his summary stated"this is an ice cream shop in a B-1 Zone. The fact that the Planning Board had already granted a parking variance, 19 spaces allowed. The reason was that the type of stores in this zone, # 1, had staggered hours of operation in terms of peak hours. We have also talked about the definition of a restaurant and fast service restaurant in the ordinances, and that's been stated by such, even the members of this board. We have had testimony from Mr. Ratz, the Building Inspector, that in his own mind the Dairy Queen without bathrooms or stools is not a restaurant, and so in my mind I down't know how it can be called a fast food restaurant. This is a very limited operation, less intensive than all the other fast food restaurant. The parking expert did testify that an appropriate allocation would be 10 parking spaces. This is a classic case of equitable estoppel where the rug is being pulled from under the land owner after permission has already been given to build the facility. That does support a special reason under the terms of the statue. The negative criteria what the board has to look at is this a substantial

detriment to the public good. There are other ice cream parlors in the area as well. That has to be considered as well. This Dairy Queen ice cream palor does not present a substanial detriment to the public good. We've seen signitures of 140 some people to the contrary of what the objectors state it is bad for the community. It doesn't impair the substantial intent and purpose of the zoning plan because you've already allowed other ice cream shops throughout the B-1 Zone and it's zoned commercial and you can't discriminate against this ice cream facility as compared as opposed to the other ones. According to the ordinances that convenience store would also fit the definition of fast food restaurant, and yet no use variance was required for the delicatesen. I would suggest to you that it is some what of an errational discrimination, to require it of the Dair Queen and not the coffee dispensing delicatesen, not to mention the other ice cream stores in town that didn't have to get use variances to operate their ice cream parlors. To conclude, the applicant has satisfied the special reasons, the positive and negative criteria of the statues, certainly the Constantinous would never have built the facility had they not had the permission of the town. This is a family that has followed the law and that is why they are here tonight.
They have sacrificed most of their life savings to get into this and it is unfair to pull the rug from under them now, and to demand that they accept a full loss of their investment, by having to rip out this Dairy Queen facility. For those reaseons, Ladies and Gentlemen, I ask that you grant this use variance, I think it is in the best interest not only of the applicant but also the community. Thank you very much".

Mr. Brittle stated there should be more trash condainers through out the property, instead of just one in front of each store. It will probably help the neighborhood. He stated he has been coming by there at 12 oclock at night and there is no reaseon for the lights to be on when the store is closed. If you can cut that down it will improve the whole neighborhood.

Mr. Burke stated you have already agreed to the garbage, there should be some way of cutting down on the light spillage out of that shopping center. It's only in your best interest to do somthing like that for the neighborhood.

Mr. Parziale stated he has driven by during the peak hours and I can't see it being a constant problem for us to warrant closing them down, I just can't see that happening. I feel for the objectors, but it is a tough call, it just doesn't warrant to shut them down.

Mrs. VanStolk agrees with Mr. Parziale, both sides have valid points, she thinks a lot of problems that have been heard, could be solved by communication between the owners and neighbors.

She feels it is not just the Dairy Queen that is causing the parking and traffic problems. She can't see where the problem is as long they don't expand by addomg a lot of seating or types of food, she can't see shuting them down.

Mr. Burke's comments are similarto Joanne's and Mike's. A lot of the objections from the neighbors can be allevoated with a little common sense between the neighbors and Constantinou's. Some give and take on both sides, there are ways of getting around just about every single objection.

Mr. Byrnes thanked Mr. Costa and all his witnesses, the Constintinou brotheres and all the objectors for helping to make this application go very smothly this evening.

Mr. Brittle made a motion to grant a favorable resolution for the use variance with the following stipulations that all lighting will be brought up to code, do somthing with the lighting, all card board be kept in recepticals, and more trash facilities around, seconded by M.Parziale, followed by the following vote: "YES" - M. Parziale, J.Miller, J.VanStolk, R.Brittle, J. Burke. "NO" - R. Lloyd.

BOROUGH HALL, 15 TAYLOR AVENUE

Incorporated December 30, 1887

908-223-1480
If No Answer
908-223-0544
Fax 908-223-1300

BOROUGH OF MANASQUAN

COUNTY OF MONMOUTH
NEW JERSEY 08736
JOHN L. WINTERSTELLA, Mayor
COLLEEN SCIMECA, Municipal Clerk

ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT

WEDNESDAY - DECEMBER 17, 1997, MEETING AGENDA

On Wednesday December 17, 1997, the Zoning Board of Adjustment of the Borough of Manasquan, will hold their regular meeting at 7:30 P.M., in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N.J..

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

APPLICATION - 38-97 - Michael & Joanne VanStolk
440 Cedar Avenue

APPLICATION - 39-97 - Paul Koyce - 127 Second Avenue

APPLICATION - 37-97 - Cont. Michael & James Constantinou
95-99 Atlantic Ave. (25 N.Main St.)

RESOLUTION - 35-97 - Joseph Rufolo - 104 McLean Avenue

OLD / NEW BUSINESS
(Work session will be conducted immediately after the regular meeting).

RESOLUTION - T.J.Coan

Very truly yours,

Marie Applegate

Marie Applegate, Secretary
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE

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ZONING BOARD OF ADJUSTMENT AND PLANNING BOARD

MANASQUAN ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES - DECEMBER 29, 1997

The Manasquan Zoning Board of Adjustment held a Special meeting on December 29, 1998 in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan, N. J..

Chairman John Burke, called the meeting to order at 7:30 P.M.. He stated this is an open public meeting held in accordance with the Open Public Me eting Act and held according to law. He asked all in attendance to join in the Salute to the Flag.

ROLL CALL: PRESENT - R.Brittle, J.Burke, J.VanStolk, J.Miller
ABSENT - R.Lloyd, M.Parziale, N.Hood, T.J.Coan.

The recording tape did not work for the first 15 minutes.

RESOLUTION - 35-97 - Joseph Rufolo -104 McLean Avenue.
The resolution was read by Mr. Byrnes. It was noted the revised plans were submitted.
A motion to approve the resolution was made seconded and followed by the following vote: "YES" - R.Brittle, J.VanStolk, J.Miller. ABSTAIN - J.Burke

RESOLUTION - 38-97 - Michael & Joanne VanStolk - 440 Cedar Ave.
The resolution was read by Attorney Byrnes. Revised site-plans by Richard Grosso were submitted to the Board's satisfaction, and were marked as A-10-A.
A motion to approve the resolution was made seconded and followed by the following vote: "YES" - R.Brittle, J.Burke, J.Miller.

RESOLUTION - 39-97 - Paul Koyce - 127 Second Avenue
Attorney Mr. Byrnes read the resolution.
A motion to approve the resolution was made, seconded and followed by the following vote: "YES" - R.Brittle, J.Burke, J.VanStolk, J.Miller.

RESOLUTION - 37-97 - Michael & James Constantinou -
95-99 Atlantic Avenue.
The resolution was read by Attorney Byrnes.
A motion by R.Brittle to approve the resolution, seconded by J.Miller and followed by the following vote: "YES"- R.Brittle, J.Burke, J.VanStolk and J.Miller.

There being no comments from the Board or audience, a motion by J.Miller to adjourn, seconded by J.VanStolk and followed by the following vote: "YES" - R.Brittle, J.Burke, J.VanStolk and J.Miller.

Respectfully submitted,
Sharon Bogie for M.Applegate Sec.
Manasquan Board of Adjustment

BOROUGH HALL, 15 TAYLOR AVENUE
POST OFFICE BOX 199

JOHN L. WINTERSTELLA
Mayor

Incorporated December 30, 1887

BOROUGH OF MANASQUAN
COUNTY OF MONMOUTH
NEW JERSEY 08736

732-223-0544
Fax 732-223-0587

COLLEEN SCIMECA
Municipal Clerk

MANASQUAN ZONING BOARD OF ADJUSTMENT

MONDAY, DECEMBER 29, 1997 MEETING AGENDA

On Monday, December 29, 1997, the Zoning Board of Adjustment of the Borough of Manasquan will hold a special meeting at 7:30 p.m. in Manasquan Borough Hall, 15 Taylor Avenue, Manasquan NJ.

AGENDA

FORMAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTION 35-97 - Joseph Rufolo - 104 McLean Avenue

RESOLUTION 38-97 - Michael & Joanne VanStolk - 440 Cedar Ave.

RESOLUTION 39-97 - Paul Koyce - 127 Second Avenue

RESOLUTION 37-97 - M. & J. Constantinou - 95-99 Atlantic Ave.

Very truly yours,

M. Applegate /smb

Marie Applegate, Secretary
Manasquan Board of Adjustment